



**ACT HUMAN RIGHTS  
COMMISSION**

Australian Capital Territory

**Final report to a complaint brought to the ACT Human Rights Commission regarding the provision of a service for a child or young person by Brindabella Christian College**

**18 January 2021**

**Disability & Community Services Commissioner  
ACT Human Rights Commission**

# Final report to a complaint brought to the ACT Human Rights Commission regarding the provision of a service for a child or young person by Brindabella Christian College

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## Introduction

This report under section 81 of the *Human Rights Commission Act 2005* ('the HRC Act') arises from a complaint made by a mother, on behalf of two of her sons, about a service for children and young people provided by Brindabella Christian Education Limited trading as Brindabella Christian College (BCC) and by the Chairperson of the BCC Board. The mother also complained of victimisation for having made a previous complaint to the Human Rights Commission (HRC).

Under section 40A of the HRC Act, a person may complain to the commission about a service for children and young people if –

- (a) *the service is not being provided appropriately; or*
- (b) *the provider of the service has acted inconsistently with any of the following:*
  - (i) *the generally accepted standard of service delivery expected of a provider of the kind of service to which the complaint relates;*
  - (ii) *any other standard prescribed by regulation; or*
- (c) *the service is not being provided.*

In her complaint, the mother stated that her two sons attended BCC. The Commission understands that after the family moved to the ACT from interstate, the family's four children were enrolled at BCC in 2016. The complaint relates to two of the children. The younger son was due to commence Year 9 in 2020, and the older son was due to commence Year 12 in 2020. The mother said that BCC and the Chairperson of the BCC Board had made a decision to not allow her two sons to be 're-enrolled' at BCC in 2020, which was causing a great deal of distress for her sons. She said that she was informed by the BCC, a fortnight only before they were to recommence school, that this

decision was based on the alleged conduct of the parents and had nothing to do with either of her sons' behaviour or conduct at the school.

The mother also alleged that the decision to cancel her sons' enrolment at BCC was an act of victimisation for having made a previous complaint in September 2019 to the HRC about a service for children and young people provided by BCC and by the Chairperson of the BCC Board. This complaint, made by the mother, centred on comments made by the Chairperson about their daughter who was in Year 12 at the time and was the College Captain, and on the response by BCC and the Board to the concerns raised by her daughter.

Section 98 of the HRC Act provides that:

- 1) *A person (the first person) commits an offence if the first person causes or threatens to cause a detriment to someone else (the other person) because —*
  - a) *the other person has —*
    - i) *made a complaint under this Act; or*
    - ii) *given information or produced a document or other thing to a person exercising a function under this Act or a rights Act; or*
    - iii) *given information, produced a document or other thing or answered a question as required under this Act;*
  - b) *or the first person believes that the other person intends to do something mentioned in paragraph (a).*

In our consideration of the complaint, and following our review of the information provided to the Commission, we are of the view that the decision to not allow the two brothers to re-enrol at BCC in 2020 is inconsistent with the National Principles of Child Safe Organisations, and the school did not appropriately provide a service for children and young people.

## **Background**

A mother made a complaint to the ACT Human Rights Commission about a decision made by BCC and by the Chairperson of the BCC Board, to not allow her sons to be re-enrolled at BCC in 2020, as notified to her in a letter from the legal representative acting for BCC, on 17 January 2020.

In that letter, the legal representative stated that he acted for BCC and that '[d]ue to recent events of concern the School requests that you find alternate education for the children. Please now understand that your children are not going to be re-enrolled at the School'. He went on to state that the reasons for this decision were as follows:

1. *The School believes that you as parents are not confident in the current policies, procedures and educational standards of the school.*
2. *You have displayed outward displeasure at the administration of the School.*
3. *You have encouraged others to also find issues with the way in which the School and the education is administered in a way that has created an unhealthy environment of anger and disunity.*

The mother stated that this decision had caused a great deal of distress for herself, her sons and her family. She said she wanted her sons' enrolment maintained as she was concerned about the

detriment this would cause her sons' studies and their wellbeing. She explained that the older brother was to commence Year 12 in 2020, that he had a strong cohort of friends and good relationships with his teachers at BCC, and he that had also been appointed House Captain of the Sport Team for 2020. She added that being forced to move schools in Year 12 would also have a negative impact on his university entrance score. She said that the younger brother, who was due to commence Year 9 in 2020, also had a strong cohort of friends at BCC, and the family had established relationships with teachers and parents at BCC who had provided a sound and stable learning environment for him. She explained this was particularly important due to his disabilities. She stated that his continuation at BCC was paramount to his well being and learning effectiveness.

The mother asserted that the action the school took had nothing to do with either of her sons' behaviour or conduct but was because of alleged conduct on the part of their parents. This was supported by the information provided in the letter sent to her on 17 January 2020 from BCC's legal representative, which referred to 'recent events that have transpired', those being the events surrounding the mother's initial complaint to the HRC in September 2019.

The mother stated that in the action the school took to cancel her sons' enrolment, there was 'no regard for their welfare, insufficient notice or procedural fairness ... and no opportunity provided for discussion or negotiation'.

The Commission understands that while the *Education Act 2004* (ACT) sets out procedural fairness requirements where students attending a non-government school are excluded from school or suspended for behavioural or conduct reasons, no such legislatively protected procedural fairness requirements are in place for exclusions for other reasons, such as those set out in a private enrolment contract. This means that the brothers had no protections available to them under the *Education Act 2004* for their exclusion from school on the basis of their parents' alleged conduct in contravention of BCC's enrolment agreement.

In an email to the Commission dated 11 February 2020 the mother advised the Commission she had attempted to bring an application before the ACT Civil and Administrative Tribunal (ACAT) regarding a breach of section 105 of the *Education Act 2004* and had attended a mediation conference at ACAT but had subsequently discontinued her application on the basis that ACAT did not have jurisdiction to hear the application.

## **BCC's response**

The Commission wrote to the BCC and to the Chairperson of the BCC Board on 29 January 2020, asking for a response to the mother's complaint, in particular her claim that the decision to not allow her sons to re-enrol at BCC was 'a direct result of our attempts to hold the school accountable for their conduct towards their older sibling and ourselves, as parents in our attempts to speak with the Board about the quality of services they were not providing'. The Commission requested BCC provide us with information and documents, including information regarding the basis for the decision to not allow the two brothers to re-enrol and for a copy of all relevant documents in relation to this decision-making process.

A response was provided to the Commission by BCC's legal representative on 12 February 2020. In this response BCC asserted that the complaint was misconceived, declaring that 'there has been no

action of the school which breaches the *Human Rights Commission Act 2005*. No action of the School relates to s 98 Victimisation or s 40A failure to deliver a service'. BCC's response did not address the questions asked by the HRC as set out in our letter to them. Given this, we must rely on the information we have available to us.

The Commission notes that a draft copy of this report was provided to BCC's principal and legal representative for their comment, however no response has been received.

## Findings from our consideration

### 1. Service for children and young people not provided appropriately

Based on the information available to the Commission, it is our view that the service for children and young people provided by BCC has not been provided appropriately. In particular, the decision to exclude the two brothers from the school without any opportunity to be consulted, to provide their views and to participate in the decision, is not consistent with general principles of procedural fairness.

The *Education Act 2004* provides some guidance on what constitutes an appropriate education service for children and young people in its requirements for registration of non-government schools in Chapter 4 of the Act. In order for a non-government school to be registered, it must demonstrate that it has appropriate policies, facilities and equipment for the curriculum offered by the school, and for the safety and welfare of its students. The ACT Manual for the Registration of Non-Government Schools provides some additional information, and states that policies, programs, procedures and guidelines that relate to the safety and welfare of students should have regard to the [National Safe Schools Framework](#) or its equivalent or alternative framework or set of policies agreed to by the Registrar of Non-government Schools. The Australian Student Wellbeing Framework provides a foundation for the whole school community to promote student wellbeing, safety and learning outcomes through its five elements of leadership, inclusion, student voice, partnerships, and support. The framework states that an effective practice relating to 'student voice' is that students have the opportunity for authentic decision-making over matters that affect them.

The Commission considers that in not providing an opportunity for the voices of the two students to be heard and in not consulting them about the proposal to exclude them from BCC prior to the decision being made, BCC did not appropriately provide a service for children and young people. We note that while section 105 of the *Education Act 2004* is not the only basis upon which students can be excluded from non-government schools, it does provide some useful guidance on how and when principals may exclude students. The principal may do so, only if:

- the student's parents have been given an opportunity to be consulted, and told in writing, about the proposed exclusion of the student and the reasons for it; and
- the student has been given a reasonable opportunity to attend counselling, undertake relevant educational programs or receive other appropriate assistance; and
- as far as the student's maturity and capacity for understanding allow, the participation of the student has been sought, and any views of the student considered, in deciding whether to exclude the student; and

- the student has been given sufficient information about the decision-making process, in a language and way that the student can understand, to allow the student to take part in the process; and
- the student has been offered information about alternatives for continuing the student's education after the exclusion.

These requirements indicate the seriousness of a decision to suspend or exclude a student, and the importance of procedural fairness in making such a decision. The Commission is concerned that similar requirements do not exist regarding a decision made to exclude a student from their school, which in this case the brothers had been attending since 2016 when the family moved to the ACT, in a situation where the school itself made clear was not because of any disruptive behaviour on the part of the students, but because of a view that their parents had 'displayed outward displeasure at the administration of the school'. Indeed, it is clear from the information available to the Commission that the students were held in high regard by their peers and teachers, with the older brother being elected House Captain of the Sport Team for 2020 (and the older daughter having been previously elected College Captain).

## **2. Service provider has acted inconsistently with the National Principles of Child Safe Organisations**

After considering the information provided, it is the Commission's view that the school's decision to not allow the two brothers to re-enrol at BCC in 2020 is inconsistent with the National Principles of Child Safe Organisations as endorsed by all Commonwealth, state and territory governments on 1 February 2019, arising out of a recommendation from the Royal Commission into Institutional Responses to Child Sexual Abuse.

In particular, it is inconsistent with Principle 2 which provides that children and young people are to be informed about their rights, participate in decisions affecting them and are taken seriously, and with Principle 3 which provides that families and communities are informed, and involved, in promoting child safety and wellbeing.

The Commission has not been provided with any information which would suggest the two young people were able to participate in the decision-making concerning their re-enrolment or to provide their views on the proposed decision and raise their concerns. Nor does the Commission have any information which would suggest that the family was able to participate in decisions affecting their children, which is one of the key action areas for Principle 3. Further, one of the key action areas for Principle 2 is that the importance of friendships is recognised and support from peers is encouraged. The Commission understands that the two young people expressed deep sadness at being separated from their student cohort and at the loss of their friendship and peer support groups. The Commission does not have any information available to it that would indicate BCC considered the importance of friendships to these two young people, in particular the young person about to start the final year of their studies in Year 12.

The decision to not allow the two brothers to re-enrol is also inconsistent with principle 4 which states that equity is upheld and diverse needs respected in policy and practice. One of the key action areas for this Principle is that children and young people have access to information, support and complaints processes in ways that are culturally safe, accessible and easy to understand. This is

supported by Principle 6 which provides that processes to respond to complaints and concerns are child-focused. From the information provided to the Commission, it does not appear that BCC's complaints policy prioritises the safety and wellbeing of children and young people or that complaints are taken seriously, and responded to promptly and thoroughly, with consideration for fairness to all parties. There was also no information provided to the Commission which would indicate BCC considered the additional vulnerabilities of the younger brother with disabilities and the impact changing schools would have on him.

### **3. Victimisation contrary to HRC Act**

The mother had previously brought a complaint to the Commission in September 2019 regarding the management and handling of a student complaint involving her daughter by BCC and the BCC Board. This complaint had centred on comments made by the Chairperson about her daughter who was in Year 12 at the time and was the College Captain, and on the response by BCC and the Board to the concerns raised by her daughter.

Section 98 of the HRC Act provides that:

- 2) *A person (the first person) commits an offence if the first person causes or threatens to cause a detriment to someone else (the other person) because —*
- a) the other person has —*
    - i) made a complaint under this Act; or*
    - ii) given information or produced a document or other thing to a person exercising a function under this Act or a rights Act; or*
    - iii) given information, produced a document or other thing or answered a question as required under this Act;*
  - b) or the first person believes that the other person intends to do something mentioned in paragraph (a).*

In the letter of 17 January 2020 from BCC's legal representative to the mother, it was stated that the reason the two brothers would not be allowed to re-enrol at BCC was because of 'recent events that have transpired' and because she and her husband had 'displayed outward displeasure at the administration of the School' and 'encouraged others to also find issues with the way in which the School and the education is administered in a way that has created an unhealthy environment of anger and disunity'.

The Commission understands the reference to 'recent events' to be those events which led to the mother lodging the first complaint with the HRC in September 2019, and the events which followed this. The Commission is of the view that BCC has caused a detriment to the mother and to her family in not allowing her sons to be re-enrolled because she had made a complaint to the HRC about the way in which BCC and the BCC Board were providing a service to a child or young person.

## Recommendations

### Recommendation 1

That BCC conduct a review of its current 'Enrolment Agreement', 'Enrolment Policy', other associated enrolment documents, and enrolment practices, to ensure that they are consistent with the National Principles of Child Safe Organisations, the *Discrimination Act 1991*, and the *Education Act 2004* (ACT).

### Recommendation 2

That BCC conduct a review of its complaints policy, any other associated complaints guidelines and documents, and complaints management practices, to ensure that they are consistent with the National Principles of Child Safe Organisations, the *Discrimination Act 1991*, and the *Education Act 2004*.

### Recommendation 3

That BCC provide a report of the reviews (referred to in Recommendations 1 and 2 above) to the ACT HRC, the ACT Education Directorate and the Commonwealth Education Department, outlining how each of the policies, agreements, and any other associated documents and practices are, or have been amended to be, consistent with each of the principles outlined in the National Principles of Child Safe Organisations, with the protections against discrimination in *Discrimination Act 1991* and the obligations in the *Education Act 2004*.

### Recommendation 4

That the ACT Education Directorate develop a program of work regarding comprehensive registration standards for non-government schools and the oversight mechanisms of non-government schools to ensure it is able to investigate complaints or concerns about non-compliance with registration standards. As part of this program of work, the ACT Education Directorate should consult with the Association of Parents and Friends of ACT Schools and other forums to ensure the views of young people, parents and guardians who have attended, or attend, non-government school are heard.

The Victorian Registration and Qualifications Authority's Guidelines to the Minimum Standards and Other Requirements for Registration of Schools may provide a useful model which could be adapted to meet the needs of the ACT, as do the Western Australia's Department of Education Guide to the Registration Standards and Other Requirements for Non-Government Schools. We also note the requirements in the Commonwealth *Australian Education Act 2013* and *Australian Education Regulation 2013* have requirements and standards for non-governments schools including for approved authorities and bodies to be 'fit and proper'.

The ACT Education Directorate should provide a progress report to the ACT Education Minister arising from this program works within twelve months of being provided with this report.



## Recommendation 5

That the ACT Government introduce amendments to the *Education Act 2004* to ensure due process safeguards apply to all decisions made to not enrol or re-enrol students, including decisions made by non-government schools.

The Commission notes the ACT Government, as a public authority, has obligations under the *Human Rights Act 2004* to act consistently with human rights, including the right to equality before the law, freedom of expression, and the right to education. This includes taking steps to protect individuals from having their rights breached by third parties.

## Implementation

The Commission requests that BCC provide an initial response to Recommendations 1-2 made in this report within sixty days, and then provide the Commission with the report under Recommendation 3 within six months of receiving the final report.

The Commission requests that the ACT Education Directorate provide an initial response to Recommendation 4 within sixty days, and a final response within twelve months of receiving the final report.

The Commission requests that the ACT Government provide an initial response to Recommendation 5 within sixty days, and a final response within twelve months of receiving the final report.

## Appendices

Appendix A: *National Principles for Child Safe Organisations*

Appendix B: *Guidelines to the Minimum Standards and Other Requirements for Registration of Schools Including Those Offering Senior Secondary Courses* (Victorian Registration and Qualifications Authority)

Appendix C: *Guide to the Registration Standards and Other Requirements for Non-Government Schools* (WA Department of Education)



**Child Safe  
Organisations**  
National Principles



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# Foreword

The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) uncovered shocking abuse of children within institutions in Australia.

The Commission recommended taking action to make organisations across the country safe for children.

The development of the National Principles for Child Safe Organisations (National Principles) is a key national reform in response to these recommendations.

The Principles have been endorsed by all Commonwealth, state and territory governments.

They provide a nationally consistent approach to embedding child safe cultures within organisations that engage with children, and act as a vehicle to give effect to all Royal Commission recommendations related to child safe standards.

I would like to thank all who contributed to the development of the National Principles and their accompanying guidance material.

Development of the National Principles was led by Community Services Ministers across Australia under the *Third Action Plan 2015-2018 of the National Framework for Protecting Australia's Children 2009-2020* and the National Children's Commissioner, Megan Mitchell, in consultation with a broad range of sectors engaging with children.

Representatives from key advocacy groups and academia also contributed, as well as children and young people themselves.

Adopting the National Principles is an important step to better protecting Australia's children.

Scott Morrison  
Prime Minister of Australia  
Chair of the Council of Australian Governments

# Preamble

A wide range of organisations work with children and young people throughout Australia. These may be small and community based, such as a sports club or playgroup where families and community members contribute voluntarily, through to more highly organised structures like schools, hospitals and churches. They may also be businesses or organisations employing staff and/or volunteers providing services to and working with children and young people. Some may work across state boundaries.

In 2013, the Australian Government established a Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) in response to community concern about widespread reports of cases where Australian institutions failed to protect children from sexual abuse. The Commission's final recommendations emphasised that members of the public, children and young people, parents, carers, families and communities should feel confident that organisations working with children provide safe environments in which children's rights, needs and interests are met.

The National Principles draw on the work of the Royal Commission, Australia's Children's Commissioners and Guardians and the 2005 National Framework for Creating Safe Environments for Children.

They provide a national approach to embedding a child safe culture across all sectors of Australian society in which children are involved.

Underpinned by a child-rights approach and based on the standards recommended by the Royal Commission, the National Principles are designed to build capacity and deliver child safety and wellbeing in organisations, families and communities and prevent future harm. In order to allow flexibility in implementation and in recognition of the variety of organisational types, sizes and capacities, the National Principles outline at a high level the 10 elements that are fundamental for making an organisation safe for children.

The National Principles emphasise the importance of culturally safe environments and practices for Aboriginal and Torres Strait Islander children and young people. Aboriginal and Torres Strait Islander families and communities are more likely to access services that are culturally safe and experience better outcomes in such services. This includes improving the way organisations engage with Aboriginal and Torres Strait Islander children and their families, recognising the impact of intergenerational trauma, and respecting cultural diversity.

The National Principles collectively show that a child safe organisation is one that creates a culture, adopts strategies and takes action to promote child wellbeing and prevent harm to children and young people. A child safe organisation consciously and systematically:

- creates an environment where children's safety and wellbeing is the centre of thought, values and actions
- places emphasis on genuine engagement with, and valuing of children
- creates conditions that reduce the likelihood of harm to children and young people
- creates conditions that increase the likelihood of identifying any harm
- responds to any concerns, disclosures, allegations or suspicions.

The adoption and application of national child safe principles in any institution or organisation across Australia, in which children are involved, is a significant milestone in promoting child safety and wellbeing.

## Wheel of Child Safety



# National Principles for Child Safe Organisations

1. Child safety and wellbeing is embedded in organisational leadership, governance and culture.
2. Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.
3. Families and communities are informed and involved in promoting child safety and wellbeing.
4. Equity is upheld and diverse needs respected in policy and practice.
5. People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.
6. Processes to respond to complaints and concerns are child focused.
7. Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.
8. Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.
9. Implementation of the national child safe principles is regularly reviewed and improved.
10. Policies and procedures document how the organisation is safe for children and young people.

As of 1 February 2019, all Parties have confirmed their commitment to the National Principles for Child Safe Organisations as follows:

<p><i>The Premier of New South Wales on behalf of the State of New South Wales</i></p> <p>The Hon Gladys Berejiklian MP</p>	<p><i>The Premier of Victoria on behalf of the State of Victoria</i></p> <p>The Hon Daniel Andrews MP</p>
<p><i>The Premier of Queensland on behalf of the State of Queensland</i></p> <p>The Hon Anastacia Palaszczuk MP</p>	<p><i>The Premier of Western Australia on behalf of the State of Western Australia</i></p> <p>The Hon Mark McGowan MLA</p>
<p><i>The Premier of South Australia on behalf of the State of South Australia</i></p> <p>The Hon Steven Marshall MP</p>	<p><i>The Acting Premier of Tasmania on behalf of the State of Tasmania</i></p> <p>The Hon Jeremy Rockliff MP</p>
<p><i>The Acting Chief Minister of the Australian Capital Territory on behalf of the Australian Capital Territory</i></p> <p>Ms Yvette Berry MLA</p>	<p><i>The Chief Minister of the Northern Territory on behalf of the Northern Territory</i></p> <p>The Hon Michael Gunner MLA</p>



# Guidance

Australia ratified the United Nations Convention on the Rights of the Child (CRC) in 1990. Under the Convention, children, like adults, possess human rights. They also have the right to special protection because of their vulnerability to exploitation and abuse. Under the Convention, a child is defined as every human being below eighteen years of age.

The following pages provide detailed guidance on each of the principles to support the adoption of the National Principles across all organisations engaging with children across Australia.

For each principle, the guidance provides:

- the intent and key elements of the principle
- key action areas, showing where organisations should take action to create a culture of child safety
- indicators that the principle is upheld, providing practical examples of signs that the principle is effectively in place
- references to examples of relevant Articles of the CRC.

This guidance is intended to support organisations to consistently and effectively implement the National Principles. It is provided as a best practice guide and allows flexibility in implementation and in recognition of the variety of organisational types, sizes and capacities.

A set of tools and resources to support implementation of the National Principles within institutions can be accessed through the National Office for Child Safety webpage (<https://pmc.gov.au/domestic-policy/national-office-child-safety>).

# Principle 1

Child safety and wellbeing is embedded in organisational leadership, governance and culture.

Article 3 of the Convention on the Rights of the Child (CRC): All adults should do what is best for children. When adults make decisions, they should think about how their decisions will affect children.

This principle provides guidance on the role of organisational leadership and governance in promoting inclusive and welcoming environments for children and young people, a culture of accountability and the ways in which a child safe culture is developed and maintained.

Adoption of this principle shows that the organisation has a commitment to child safety and wellbeing through all levels of the organisation. Governance arrangements are transparent and include a child safety and wellbeing policy, practice guidance, a Code of Conduct and a risk management framework. Governance arrangements vary depending on the type, nature and size of an organisation. Organisational leadership provides an authorising environment for the sharing of information about risks to children and young people.

## Key action areas:

- 1.1 The organisation makes a public commitment to child safety.
- 1.2 A child safe culture is championed and modelled at all levels of the organisation from the top down and the bottom up.
- 1.3 Governance arrangements facilitate implementation of the child safety and wellbeing policy at all levels.
- 1.4 A Code of Conduct provides guidelines for staff and volunteers on expected behavioural standards and responsibilities.
- 1.5 Risk management strategies focus on preventing, identifying and mitigating risks to children and young people.
- 1.6 Staff and volunteers understand their obligations on information sharing and recordkeeping.

## Indicators that this principle is upheld:

- The organisation can demonstrate they have publicly available and current documents such as a child safety and wellbeing policy, practice guidance, information sharing protocols, staff and volunteer codes of conduct and risk management strategies.
- The organisational leadership models and regularly reinforces attitudes and behaviours that value children and young people and a commitment to child safety, child wellbeing and cultural safety. This commitment is clear in duty statements, performance agreements and staff and volunteer review processes.
- Staff, volunteers, children and young people have a sound knowledge of children's rights, including their rights to feel safe and be heard, and the accountabilities that accompany these rights.
- Leaders promote sharing good practice and learnings about child safety and wellbeing

# Principle 2

Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.

**Article 12 of the CRC: Children have the right to give their opinion, and for adults to listen and take it seriously.**

This principle describes an organisational culture that supports children and young people to understand what child safety and wellbeing means. They are informed about their rights and responsibilities in an age appropriate way. They contribute and actively participate in building an organisational culture that is safe for them.

Children and young people know about the organisation's commitment to child safety and wellbeing and access relevant information and programs. They recognise safe environments and understand protective strategies. In such environments, children and young people feel comfortable participating in decisions and communicating their views and concerns. Ultimately, however, the responsibility for child safety and wellbeing in an organisation rests with the organisation and its workers.

Staff and volunteers value and respect children and young people's identity and culture, are comfortable and skilled in engaging with them, understand their developmental needs and build on children and young people's strengths and capacities.

## Key action areas:

- 2.1 Children and young people are informed about all of their rights, including to safety, information, and participation.
- 2.2 The importance of friendships is recognised and support from peers is encouraged, to help children and young people feel safe and be less isolated.
- 2.3 Where relevant to the setting or context, children may be offered access to sexual abuse prevention programs and to relevant related information in an age appropriate way.
- 2.4 Staff and volunteers are attuned to signs of harm and facilitate child-friendly ways for children to express their views, participate in decision-making and raise their concerns.

## Indicators that this principle is upheld:

- The organisation has programs and resources to educate children and young people on their rights including their right to safety and right to be listened to.
- The organisation is proactive in providing age appropriate platforms to regularly seek children and young people's views and encourage participation in decision-making.
- Staff and volunteers have a good understanding of children and young people's developmental needs.
- Opportunities for participating are documented and regularly reviewed.
- The organisational environment is friendly and welcoming for children and young people.
- Children and young people participate in decision-making in the organisation, including in relation to safety issues and risk identification.
- Children and young people can identify trusted adults and friends.
- Children and young people are informed about their roles and responsibilities in helping to ensure the safety and wellbeing of their peers.

# Principle 3

Families and communities are informed, and involved in promoting child safety and wellbeing.

**Article 5 of the CRC: Families have the responsibility to help children learn to exercise their rights, and to ensure that their rights are protected.**

This principle outlines the range of ways an organisation can involve families and the community in its approach to child safety and wellbeing, relevant policies and practices and the provision of accessible information. This will help inform parents and carers about safeguarding children and young people and encourage their feedback and input. They will be empowered to speak up and drive conversations regarding child safety and wellbeing and how and when they can raise issues and concerns.

Families have the primary responsibility for the upbringing of their children, and are aware of their children's primary protective networks. There is wide variety in the structure of families, the role different family members may play in a child's life, their backgrounds and cultures. Families and carers are best placed to advise about their children's needs and capabilities and can inform organisations about practices and environments that are safe for them. In a safe environment, children, young people, family and community members feel that their culture and identity are respected.

## Key action areas:

- 3.1 Families participate in decisions affecting their child.
- 3.2 The organisation engages and openly communicates with families and the community about its child safe approach and relevant information is accessible.
- 3.3 Families and communities have a say in the development and review of the organisation's policies and practices.
- 3.4 Parents, caregivers and the community are informed about the organisation's operations and governance.

## Indicators that this principle is upheld:

- The organisation is responsive to the needs of families and communities, including to cultural safety aspects.
- The organisation creates opportunities for families and communities to be involved in how the organisation operates, including encouraging their children's participation and feedback.
- The organisation has clear and accessible information for families and communities about the organisation's operations and policies, including child safety and wellbeing policy, Code of Conduct, record keeping practices and complaints and investigation processes.
- The organisation seeks feedback from families and communities on issues of child safety and wellbeing and incorporates this into their policies and practices.
- The organisation engages with and supports approaches that build cultural safety through partnerships and respectful relationships.

# Principle 4

Equity is upheld and diverse needs respected in policy and practice.

Article 2 of the CRC: All children have rights, no matter who they are, where they live, what their parents do, what language they speak, what their religion is, their sex or gender, what their culture is, whether they have disability, whether they are rich or poor.

Equity is upheld and diverse needs respected in policy and practice.

This principle examines how recognition of children and young people's diverse circumstances enables an organisation to work in a more child centred way and empowers children and young people to participate more effectively. This builds an organisational culture that acknowledges the strengths and individual characteristics of children, and embraces all children regardless of their abilities, sex, gender, or social, economic or cultural background.

A welcoming organisation is one where all children and young people feel comfortable and where services are provided in culturally safe and inclusive ways. This reduces the risk of discrimination, exclusion, bullying and abuse.

## Key action areas:

- 4.1 The organisation, including staff and volunteers, understands children and young people's diverse circumstances, and provides support and responds to those who are vulnerable.
- 4.2 Children and young people have access to information, support and complaints processes in ways that are culturally safe, accessible and easy to understand.
- 4.3 The organisation pays particular attention to the needs of Aboriginal and Torres Strait Islander children, children with disability, children from culturally and linguistically diverse backgrounds, those who are unable to live at home, and lesbian, gay, bisexual, transgender and intersex children and young people.

## Indicators that this principle is upheld:

- The organisation has specific policies in place that promote equity and respect diversity for the safety and wellbeing of all children and young people.
- The organisation produces child-friendly material in accessible language and formats that promotes inclusion and informs all children and young people of the support and complaints processes available to them.
- Board members, employees and volunteers champion attitudes and behaviours that respect the human rights of all children and young people, and are inclusive, well informed and responsive to diverse needs.
- Board members, staff and volunteers reflect on how discrimination and exclusion, whether intentional or unintentional, may work against a safe and inclusive culture and they develop proactive strategies to address this.
- Staff and volunteers are trained to recognise and respond effectively to children and young people with diverse needs.

# Principle 5

People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.

Article 3.3 of the CRC: Children should feel confident about the standards established in an organisation, particularly in the areas of safety, health, number and suitability of staff, as well as supervision.

This principle describes recruitment and staff development policies, including appropriate screening, that are a foundation of child safe organisations. This principle also includes induction training, understanding child safety responsibilities and cultural safety concepts, and appropriate supervision of staff and volunteers. Reporting obligations, training in record keeping and information sharing provide staff and volunteers with relevant practice tools to better safeguard children and young people.

## Key action areas:

- 5.1 Recruitment, including advertising, referee checks and staff and volunteer pre-employment screening, emphasise child safety and wellbeing.
- 5.2 Relevant staff and volunteers have current working with children checks or equivalent background checks.
- 5.3 All staff and volunteers receive an appropriate induction and are aware of their responsibilities to children and young people, including record keeping, information sharing and reporting obligations.
- 5.4 Ongoing supervision and people management is focused on child safety and wellbeing.

## Indicators that this principle is upheld:

- The organisation emphasises its commitment to child safety and wellbeing when advertising for, recruiting and screening staff and volunteers.
- Duty statements, selection criteria and referee checks demonstrate children and young people are valued and respected, commitment to child safety and wellbeing, understanding of children's developmental needs and culturally safe practices.
- Employers, staff and volunteers in an organisation have completed background check requirements.
- Staff and volunteers understand the child safety policy and procedures of the organisation and meet their record keeping, information sharing and reporting responsibilities.
- Ongoing staff support, supervision and performance management processes involve child safety elements.
- The organisation maintains suitable record keeping systems and protocols for staff and volunteers.
- The organisation has a range of tools and processes to monitor and mitigate risk.

# Principle 6

Processes to respond to complaints and concerns are child focused.

**Article 42 of the CRC: Children have the right to know their rights! Adults should know about these rights and help children learn about them, too.**

This principle provides guidance on how human resource management policies and practices and effective complaints management processes should be accessible, responsive to and understood by children and young people, families, staff and volunteers. Complaint management processes will be linked to the Code of Conduct and provide details about where breaches of the Code have occurred. Training will help staff and volunteers to recognise and respond to neglect, grooming and other forms of harm, provide appropriate support to children and young people in these instances and meet legal requirements. This includes training to assist in responding to different types of complaints, privacy considerations, listening skills, disclosures of harm and reporting obligations.

## Key action areas:

- 6.1 The organisation has an accessible, child focused complaint handling policy which clearly outlines the roles and responsibilities of leadership, staff and volunteers, approaches to dealing with different types of complaints, breaches of relevant policies or the Code of Conduct and obligations to act and report.
- 6.2 Effective complaint handling processes are understood by children and young people, families, staff and volunteers, and are culturally safe.
- 6.3 Complaints are taken seriously, and responded to promptly and thoroughly.
- 6.4 The organisation has policies and procedures in place that address reporting of complaints and concerns to relevant authorities, whether or not the law requires reporting, and co-operates with law enforcement.
- 6.5 Reporting, privacy and employment law obligations are met.

## Indicators that this principle is upheld:

- Staff and volunteers are well-informed about their roles and responsibilities, reporting and privacy obligations and processes for responding to disclosures. They feel empowered and supported to draw attention to breaches of the Code of Conduct within the organisation and to challenge these behaviours.
- The complaints handling policy prioritises the safety and wellbeing of children and young people and recognises the role of families and communities in understanding and using the policy.
- Policies and procedures demonstrate regard for fairness to all parties to a complaint or investigation including support and information as appropriate.
- Staff and volunteers have a good knowledge of the different ways children and young people express concerns or distress and disclose harm.
- Information about all complaints and concerns, including breaches of relevant policies or the Code of Conduct, is recorded and analysed, including in relation to processes, timeframes and record keeping practices. Systemic issues are identified and mitigated through this process.
- Children and young people know who to talk to if they are feeling unsafe and know what will happen.
- Timely feedback is provided to children and young people, families, staff and volunteers who raise concerns or complaints. This includes reporting back on incidents, concerns and complaints.

# Principle 7

Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.

**Article 19 of the CRC: Children have the right to be protected from being hurt and mistreated, in body or mind.**

This principle emphasises the importance of information, ongoing education and training for staff and volunteers. Staff and volunteers build on their knowledge and skills and evidence-based practice tools through professional seminars and memberships, supervised peer discussions, team training days and access to research and publications. This ensures staff and volunteers develop awareness and insights into their attitudes towards children and young people, and have a contemporary understanding of child development, safety and wellbeing. They are able to identify indicators of child harm, respond effectively to children and young people and their families and support their colleagues. Staff and volunteers are able to respond in culturally appropriate ways to children and young people who disclose or show signs that they are experiencing harm inside or outside the organisation.

Staff and volunteers are trained in the rights of children and young people in relation to record keeping, and the possible uses and audiences for records that may be created.

## Key action areas:

- 7.1 Staff and volunteers are trained and supported to effectively implement the organisation's child safety and wellbeing policy.
- 7.2 Staff and volunteers receive training and information to recognise indicators of child harm including harm caused by other children and young people.
- 7.3 Staff and volunteers receive training and information to respond effectively to issues of child safety and wellbeing and support colleagues who disclose harm.
- 7.4 Staff and volunteers receive training and information on how to build culturally safe environments for children and young people.

## Indicators that this principle is upheld:

- The organisation provides regular opportunities to educate and train staff on child safety and wellbeing policies and procedures and evidence-based practice.
- The organisation provides a supportive and safe environment for staff and volunteers who disclose harm or risk to children and young people.
- Staff and volunteers receive training on the rights of children and young people in relation to records being created about children and young people and their use.
- Staff and volunteers recognise the range of indicators of child harm.
- Staff and volunteers respond effectively when issues of child safety and wellbeing or cultural safety arise.



# Principle 8

Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.

**Article 17 of the CRC: Children have the right to get information that is important to their wellbeing from radio, newspapers, books, computers and other sources. Adults should make sure that the information children get is not harmful, and help them find and understand the information they need.**

This principle highlights that reducing the risk of harm in physical and online environments is an important preventative mechanism. Risk management strategies clarify potential risks where adult to child or child to child interactions occur, or where the physical environment is unsafe.

Technological platforms within organisations provide valuable tools in education, communication and help seeking. Risks associated with these platforms are minimised through all necessary means, including: education of children and young people, parents, staff and volunteers about expectations of online behaviour; the application of safety filters; and communication protocols.

## Key action areas:

- 8.1 Staff and volunteers identify and mitigate risks in the online and physical environments without compromising a child's right to privacy, access to information, social connections and learning opportunities.
- 8.2 The online environment is used in accordance with the organisation's Code of Conduct and child safety and wellbeing policy and practices.
- 8.3 Risk management plans consider risks posed by organisational settings, activities, and the physical environment.
- 8.4 Organisations that contract facilities and services from third parties have procurement policies that ensure the safety of children and young people.

## Indicators that this principle is upheld:

- The organisation's risk management strategy addresses physical and online risks, including risks arising from child to child and adult to child interactions and the state and nature of physical spaces.
- The organisation's policies promote the use of safe online applications for children and young people to learn, communicate and seek help.
- The organisation considers ways in which the physical environment might promote cultural safety.
- Staff and volunteers are proactive in identifying and mitigating physical and online risks.
- Staff and volunteers access and use online environments in line with the organisation's Code of Conduct and relevant communication protocols.
- Children and young people and their families are informed, in culturally appropriate ways, about the use of the organisation's technology and safety tools.
- Third party contractors for the provision of facilities and services have appropriate measures in place to ensure the safety and wellbeing of children and young people.

# Principle 9

Implementation of the national child safe principles is regularly reviewed and improved.

Article 29 of the CRC: Children's education should help them use and develop their talents and abilities. It should also help them learn to live peacefully, protect the environment and respect other people.

This principle emphasises that child safe organisations seek to continuously improve their delivery of child safe services and their operations. They also conduct reviews to ensure that organisational policies and procedures, including record keeping practices, are being implemented by staff and volunteers. The participation and involvement of staff, volunteers, children and young people, families and community mentors in these reviews will strengthen the organisation's child safeguarding capacities. This includes the importance of reporting on the findings of reviews, and sharing good practice and learnings on a regular basis. Regular reviews ensure that organisations address new challenges or concerns that arise.

## Key action areas:

- 9.1 The organisation regularly reviews, evaluates and improves child safe practices.
- 9.2 Complaints, concerns and safety incidents are analysed to identify causes and systemic failures so as to inform continuous improvement.
- 9.3 The organisation reports on the findings of relevant reviews to staff and volunteers, community and families and children and young people.

## Indicators that this principle is upheld:

- The organisation seeks the participation of children and young people, parents and communities in its regular reviews of child safety and wellbeing policies, procedures and practices.
- Child safety and wellbeing indicators are included in documentation used for reviews.
- Review outcomes are considered and implemented to improve child safe practices.
- Regular analysis of complaints demonstrates improvement in child safe practices.

# Principle 10

Policies and procedures document how the organisation is safe for children and young people.

**Article 4 of the CRC: Organisations have a responsibility to ensure children's rights are protected. They can help families to protect children's rights and create an environment where children can grow and reach their potential.**

This principle outlines the importance of organisations having a clearly documented child safety and wellbeing policy. This will ensure that all stakeholders, including organisational staff and volunteers, children and young people and their families and carers, are aware of how the organisation is planning to meet its obligations to create an environment that is safe for children. Partner agencies or organisations funded to provide services to children and young people should demonstrate adherence to child safety and wellbeing policies and practices.

Documenting policies and procedures ensures consistent application of child safe practices across the organisation. It also enables organisations to examine, through review processes, adherence to child safety and wellbeing principles and practices.

## Key action areas:

- 10.1 Policies and procedures address all national child safe principles.
- 10.2 Policies and procedures are documented and easy to understand.
- 10.3 Best practice models and stakeholder consultation informs the development of policies and procedures.
- 10.4 Leaders champion and model compliance with policies and procedures.
- 10.5 Staff and volunteers understand and implement policies and procedures.

## Indicators that this principle is upheld:

- The organisation's child safety and wellbeing policy is comprehensive and addresses all ten of these Principles.
- The organisation's child safety and wellbeing policy and procedures are documented in a language and format that is easily understood and accessible to staff, volunteers, families and children and young people.
- Audits of the organisation's policies and procedures provide evidence of how the organisation is child safe through its governance, leadership and culture.
- Practice within the organisation is consistent across the board and compliant with child safe policies and procedures, including culturally safe work practices.
- Interviews or surveys of children and young people, families and community members demonstrate confidence in and awareness of the organisation's policies and procedures on promoting a child safe culture.
- Surveys of executive, staff and volunteers demonstrate high levels of understanding of policies, procedures and practice requirements of the organisation.

The Australian Human Rights Commission was engaged by the Australian Government Department of Social Services to lead consultations and development of the National Principles for Child Safe Organisations. The goal is to build cultures in all organisational settings to advance the safety and wellbeing of children and young people.

Work continues with national sector organisations on the implementation of the National Principles and development of related resources.

For more information on Child Safe Organisations please go to:

<https://childsafe.humanrights.gov.au/>

Contact: [childsafe@humanrights.gov.au](mailto:childsafe@humanrights.gov.au)

For more information on the National Office for Child Safety go to:

<https://pmc.gov.au/domestic-policy/national-office-child-safety>

Contact: [nationalofficeforchildsafety@pmc.gov.au](mailto:nationalofficeforchildsafety@pmc.gov.au)

# Guidelines to the Minimum Standards and Requirements for School Registration



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Revisions to the Guidelines to the Minimum  
Standards and Requirements for School  
Registration were approved by the VRQA Board on  
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In Victoria, all schools must meet the minimum standards for school registration.

The minimum standards provide a foundation for quality schools through:

- good governance
- strong financial management
- effective curriculum
- sound teaching practices, and
- safe environments for children.



# Introduction

## About the Guidelines

The *Education and Training Reform Act 2006* (Act) and the Education and Training Reform Regulations 2017 (ETR Regulations) prescribe the minimum standards and other requirements that schools must comply with to be registered and maintain registration.

The Guidelines to the Minimum Standards and Requirements for School Registration (Guidelines) form part of the legal framework for the registration and regulation of schools. The Guidelines detail the requirements of the minimum standards for registration of schools (minimum standards) and other requirements under the Act.

## Who uses the Guidelines

The Guidelines apply to schools offering:

- a. Foundation–Year 10
- b. a senior secondary course such as the Victorian Certificate of Education (VCE), Victorian Certificate of Applied Learning (VCAL) or International Baccalaureate (IB) Diploma Programme, which are normally provided in Years 11–12.

The Guidelines describe the information, documentation and other evidence the VRQA requires for it to be satisfied that a school meets the minimum standards. The Guidelines should be used by:

- an individual or organisation applying for registration as a school or a review body applying to register a school
- two or more registered schools that intend to amalgamate (the proposed amalgamated school must apply to the VRQA as if it were a new school)
- a registered school seeking to amend its registration. Catholic and government schools should contact the Catholic Education Commission of Victoria Ltd (CECV) or the Regional Services Group, Department of Education and Training (DET), for advice, application forms and procedures. The VRQA does not accept direct applications from Catholic or government schools
- a registered school changing its legal entity, for example moving from an incorporated association to a company limited by guarantee
- a registered school delivering or applying to deliver a senior secondary qualification
- a registered school undergoing review.

The VRQA uses the Guidelines when conducting reviews to determine whether a school continues to satisfy the minimum standards.

The Guidelines do not detail all of the evidence a school may need to provide to demonstrate compliance with the minimum standards. The VRQA may request evidence of compliance from individuals, organisations and review bodies applying for registration or from registered schools, that is in addition or different to, that set out in the Guidelines (section 4.3.1(5) of the Act).

References to regulations, Ministerial Orders or provisions of an act are as at the date of the Guidelines. From time to time there may be amendments to the Act, ETR Regulations or the issuing of new Ministerial Orders. It is the responsibility of registered schools and those applying for school registration to ensure they are across any of these changes.

## School registration

A school must be registered as one or more of the following types:

- a primary school
- a secondary school

- a co-educational school
- a single sex school
- a specific purpose school, such as a school that provides an alternative educational program
- a specialist school, such as a school that caters mainly for students with disabilities or with social, emotional or behavioural difficulties (Schedule 5, clause 10, ETR Regulations).

### Registering a new school

An individual or organisation seeking to register a new school applies to the VRQA using the *Application to Register an Independent School* form available at:

- [www.vrqa.vic.gov.au/schools](http://www.vrqa.vic.gov.au/schools)

DET's Regional Services Group manages government school applications and the CECV manages Catholic school applications.

The Guidelines detail the evidence required and should be referred to when completing the application form. Schedule 5 of the ETR Regulations also details the information that is required to be provided to the VRQA in an application for school registration.

### Registration requirements: Foundation–Year 10

Schools offering or applying to offer Foundation–Year 10 are required to meet the minimum standards set out in Schedule 4 of the Regulations.

Section 4.3.1(6) of the Act provides that the VRQA must not register a school unless the VRQA **is satisfied that** the school meets the minimum standards and other requirements contained in that section.

### Registration requirements: schools offering accredited senior secondary courses

Schools offering or applying to offer the VCE, VCAL or the IB Diploma Programme or any part of such a course are required to meet the minimum standards for registration to provide an accredited senior secondary course set out in Schedule 8 of the ETR Regulations and the other requirements contained in section 4.3.11 of the Act.

These are standards that schools must satisfy to offer a senior secondary course and are in addition to the requirements for school registration.

The VRQA will not register a person, body or school as a senior secondary provider unless it **is satisfied that** the person, body or school meets the minimum standards for registration to provide an accredited senior secondary course.

Additionally, schools must obtain the awarding body's authorisation to deliver their courses. The Victorian Curriculum and Assessment Authority (VCAA) authorises schools to deliver the VCE and VCAL, and the International Baccalaureate (IB) authorises delivery of the IB Diploma Programme.

### Registration requirements: schools offering courses to overseas students

Schools offering or applying to offer courses to overseas students are regulated by Part 4.5 of the Act and the *Education Services for Overseas Students Act 2000* (Cwth) (ESOS Act). Part 4.5 and the ESOS Act impose additional requirements that schools must satisfy to offer courses to overseas students.

Schools are required to first seek the VRQA's approval. If approved, the VRQA will then recommend to the Commonwealth that the provider be registered under the ESOS Act.

Schools offering courses to overseas students are required to meet the VRQA's:

- Guidelines for the Enrolment of Overseas Students Aged Under 18
- Guidelines on the Provision of VCAL Courses to Overseas Students.

More information and the guidelines for schools seeking to offer courses to overseas students is available at:

- [www.vrqa.vic.gov.au/schools](http://www.vrqa.vic.gov.au/schools)

## Review bodies

One of the ways the VRQA may satisfy itself that a school continues to comply with the minimum standards is through a review conducted by a VRQA approved review body.

The VRQA has approved CECV and DET's Regional Services Group as review bodies responsible for ensuring the ongoing quality assurance of their respective schools with the minimum standards and other requirements for registration.

## School reviews

A school is reviewed every four to five years by the VRQA or the school's review body. The Act requires a school to participate in the review and evaluation process, and to provide the VRQA with the necessary evidence required to demonstrate that it is complying with the minimum standards.

The VRQA may also open a review at any time if it considers it appropriate to do so.

## Outcomes of applications and reviews

The VRQA will advise all applicants and schools of the outcome of their application for registration or review.

Certain decisions made by the VRQA about a school's registration may be reviewed by the Victorian Civil Administration Tribunal.

For more information, see:

- [www.vrqa.vic.gov.au/schools](http://www.vrqa.vic.gov.au/schools)

## Complaints about compliance

The VRQA is required to investigate a complaint alleging a breach of obligations by a school in relation to the democratic principles in section 1.2.1(a), (c), (e) and (f) of the Act, the availability of information about the school's performance or the right of a parent or student to access information about the student's achievement (regulations 97–99, ETR Regulations).

Details of the relevant obligations are that:

- all providers of school education, both government and non-government, must ensure that their programs and teaching are delivered in a manner that supports and promotes the principles and practice of Australian democracy. These principles include a commitment to elected government, the rule of law, equal rights for all before the law, freedom of religion, freedom of speech and association, and the values of openness and tolerance
- information about the performance of education and training providers should be publicly available
- a school community has the right to information about the performance of its school
- a parent or guardian of a student and the student have the right to access information about the student's achievement.

The VRQA's general powers also allow it to investigate complaints alleging a breach of the minimum standards (section 4.2.3).

A complaint must first be raised with the school. If unresolved, complaints about:

- government schools will be referred to the Regional Services Group, DET
- Catholic schools will be referred to CECV

- Independent schools will be investigated by the VRQA.

Some complaints may result in the VRQA undertaking a general or specific review of the school's compliance with the minimum standards.

For more information on the VRQA's policy and procedures on complaints, see:

- [www.vrqa.vic.gov.au](http://www.vrqa.vic.gov.au)

# The minimum standards

## School governance

### Democratic principles

A registered school's programs and teaching must be consistent with the principles of Australian democracy.

### Evidence requirements

There must be evidence of a statement affirming that the school adheres to the principles. This might be included in the school's constitution, prospectus, handbook or statement of values or philosophy.

### Explanatory notes

The ETR Regulations state that this standard is not intended to affect the rights accorded to, or the compliance with any obligation imposed on a school under a State or Commonwealth law.

For example, the *Equal Opportunity Act 2010* allows a school to operate wholly or mainly for students of a particular sex, race, religious belief, age or age group. This means a school established by a particular religious denomination or group of religious denominations can give preference in its enrolment policy to adherents of that denomination(s) or their children.

### Regulatory context

The programs of, and teaching in, a registered school must support and promote the principles and practice of Australian democracy, including a commitment to—

- (a) elected government; and
- (b) the rule of law; and
- (c) equal rights for all before the law; and
- (d) freedom of religion; and
- (e) freedom of speech and association; and
- (f) the values of openness and tolerance.

Nothing in this clause is intended to affect the rights accorded to, or the compliance with any obligation imposed on, a registered school under a law of the State or of the Commonwealth.

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Schedule 4 clause 1 of the Education and Training Reform Regulations 2017

### Governance

The proprietor must structure the governance of a school to allow it to effectively manage the school's finances and development of strategic direction, and fulfil its legal obligations.

### Evidence requirements

For a non-government school, there must be evidence of:

- an outline of the governing body's structure and membership including details of the experience and expertise of the members of the board, the name of the school's proprietor and the legal entity type
- details of the member(s) of the company, if the school is a company limited by guarantee
- copies of all delegations from the governing body. For example, financial or non-financial delegations made from the school governing body to the school principal
- the company or association's constitution or rules of association

- a conflict of interest register for all responsible persons as defined in the ETR Regulations and an explanation of how any conflict will be managed
- the most recent financial statement for the company or association which must be audited
- the school's governance charter, outlining the key functions and responsibilities of the school board and any subcommittees
- the school's strategic plan
- the school's business plan which is certified by a qualified accountant, and which must include:
  - enrolment estimates and assumptions
  - the estimated socioeconomic status of students and assumptions underpinning this status
  - estimated State and Commonwealth grant funding
  - five-year financial forecasts.

For a government school, the Act defines the role and responsibilities of a government school including the role of the school council. DET's Regional Services Group monitors adherence to this standard by government schools.

### Regulatory context

1. The proprietor must structure the governance of a registered school to enable:
  - (a) the effective development of the strategic direction of the school; and
  - (b) the effective management of the finances of the school; and
  - (c) the school to fulfil its legal obligations.

---

Schedule 4 clause 15(1) of the Education and Training Reform Regulations 2017

### Not-for-profit status

A registered school must be not-for-profit as defined in regulation 7. The proprietor must have sufficient controls in place to prevent breaches of the not-for-profit requirements in regulation 7.

### Evidence requirements

For a non-government school there must be evidence of:

- a statutory declaration of the school's not-for-profit status executed by the chair of the school governing body
- copies of agreements, contracts or arrangements with third parties, including related entities (within the meaning of section 9 of the *Corporations Act 2001*) or any for profit or not-for-profit organisation affiliated with the school (for example, affiliated religious groups)
- copies of any loan agreements, guarantees and the like to or from third parties, including related entities and/or affiliated organisations
- details of the related entity and/or affiliated organisation and relationship between the school and that entity (if any agreement or loan is with a related entity or affiliated organisation).

Schools must ensure that there is a legally binding written agreement for any loans or arrangements for the delivery of services to the school or to its students. Such agreements may include but are not limited to arrangements for the provision of:

- administrative, management and financial services
- education services including where the school contracts with another school, a registered training organisation or an organisation not registered as an education and training provider
- leases or licences for premises occupied or used by the school
- loans or security.

## Explanatory notes

Schools must ensure that these agreements are on commercial terms and do not constitute a prohibited agreement or arrangement within the meaning of regulation 5.

A school must identify if any agreement is with a related or affiliated entity of the school, its proprietor or any responsible person and provide information about the schools relationship with that related or affiliated entity or person to the VRQA.

Not-for-profit has a particular meaning under the ETR Regulations. The key elements which make a school 'not-for-profit' are that:

- the school is not established for the purpose of generating profit or gain
- the money and property received by the school or the proprietor of the school is only applied toward the conduct of the school and is not used for any other purpose
- the school and its proprietor are not a party to a prohibited agreement or arrangement.

Generating a profit or gain will not, of itself, mean that a school is 'for profit'. If the school applies those profits or gains toward the conduct of the school and does not distribute them to any other person or entity then it is still satisfying the 'not-for-profit' requirement. On this basis, the ETR Regulations provide that a proprietor is not to be taken to conduct the school for the purpose of profit or gain if the proprietor makes a financial surplus in the course of the proper administration of the school.

For a full explanation of not-for-profit and prohibited agreement arrangements, see:

- **not-for-profit** as per regulation 7 of the ETR Regulations
- **prohibited agreement or arrangement** as per regulation 5 of the ETR Regulations (a definition is contained in [Appendix 1](#) of the Guidelines).

## What are the requirements of a not-for-profit school under the ETR Regulations?

For the purposes of the ETR Regulations, a not-for-profit school is a school that satisfies **all** the following criteria:

- a. the school is not established for the purpose of profit or gain;
- b. the proprietor of the school does not conduct the school for the purposes of the proprietor's or any other person's profit or gain;
- c. no part of the profit or gain made in the conduct of the school is or may be distributed to any person or entity;
- d. all money and property received by the school or the proprietor of the school for the conduct of the school are applied solely towards the conduct of the school in accordance with the school's 'not-for-profit' purpose;
- e. the school is not a party to a prohibited agreement or arrangement
- f. the proprietor of the school is not a party to a prohibited agreement or arrangement;
- g. in the case of a non-government school, on the closure of the school, any surplus assets of the school remaining after payment of the school's liabilities are required by the constitution or rules governing the school to be —
  - i. used by the proprietor of the school for providing education services to school-age children or for other not-for-profit purposes; or
  - ii. given to a not-for-profit entity operating within Australia that provides education services to school children or that has similar purposes to the proprietor.

## Regulatory context

- (1) A registered school must be a not-for-profit school.
- (2) The proprietor of a registered school must have sufficient controls in place to ensure that school property and assets are not distributed or used for the profit or gain of another person or entity.

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Schedule 4 clause 17 of the Education and Training Reform Regulations 2017

## Probity

All responsible persons in a school must be fit and proper and able to carry out their legal responsibilities in relation to the operation of the school.

### Evidence requirements

There must be evidence of a:

- completed Fit and Proper Statutory Declaration from each responsible person
- list of each responsible person, their role and a summary of the qualifications and experience of each person.

### Explanatory notes

In a non-government school, a responsible person must be a fit and proper person who:

- is able to carry out their responsibilities in relation to the operation of the school in compliance with the laws of Victoria, the Commonwealth, another state or a territory relating to the provision of school education
- has not been found guilty of an offence which is (or which would if committed in Victoria) be an indictable offence
- has not been:
  - in the case of an individual, insolvent under administration (for example, declared bankrupt)
  - in the case of a body corporate, is not or has not been an externally administered body corporate
- is not a represented person under the *Guardianship and Administration Act 1986*
- is not in breach of any requirements of the *Working with Children Act 2005* or has not had their approval revoked or suspended
- has not been the subject of, or associated with an adverse finding or other action taken by a court, tribunal, commission of inquiry, professional discipline body or regulatory authority (in Victoria or elsewhere) where the adverse finding relates to:
  - dishonest, misleading or deceptive conduct, or
  - non-compliance with a legal obligation relating to the provision of education, or
  - a breach of duty (including a duty of disclosure).

The VRQA may exempt a person from the requirement to comply with Schedule 4 clause 15(5)(b) or (5)(f) if in its opinion it would not be appropriate to exclude that person from being involved in the conduct of the school.

When considering whether to grant an exemption the VRQA must have regard to:

- the nature and gravity of the offence or misconduct and its relevance to conducting a school
- the period of time since the person committed the offence or engaged in the misconduct
- the punishment imposed for the offence or misconduct
- whether or not the conduct that constituted the offence has been decriminalised or the standards of conduct materially changed since the person engaged in the conduct that constituted the offence or misconduct
- the person's behaviour since committing the offence or engaging in the misconduct
- any information given by the person concerning the person's conduct in relation to the registration of the school
- any other matter the VRQA considers relevant.

### Regulatory context

(2) In a non-government school, every responsible person must be a fit and proper person.

Schedule 4 clause 15 of the Education and Training Reform Regulations 2017



(5) A *fit and proper person* means a responsible person who—

- (a) is able to carry out the person's responsibilities in relation to the operation of the school in compliance with the laws of Victoria, the Commonwealth, another State or a Territory relating to the provision of school education; and
- (b) has not been found guilty of an offence which is, or which would if committed in Victoria be, an indictable offence; and
- (c) has not been—
  - (i) in the case of an individual, insolvent under administration; or
  - (ii) in the case of a body corporate, an externally-administered body corporate; and
- (d) is not a represented person; and
- (e) if the person is given an assessment notice under the Working with Children Act 2005 in relation to the school, complies with—
  - (i) all requirements under the Act on the person as a holder of an assessment notice; and
  - (ii) all requirements under the Act where the assessment notice is revoked or suspended; and
- (f) has not been the subject of or associated with an adverse finding or the subject of action taken by a court, tribunal, commission of inquiry, professional discipline body or regulatory authority (in Victoria or elsewhere) where the adverse finding or the action relates to —
  - (i) dishonest, misleading or deceptive conduct; or
  - (ii) non-compliance with a legal obligation relating to the provision of education; or
  - (iii) a breach of duty (including a duty of disclosure).

#### Notes

For the purposes of clause 15(5)(f) an adverse finding or action may include a decision by a registering body to limit, suspend or cancel a registration or permit granted to a responsible person individually, or to a body or entity that the responsible person has been associated with governing.

In the case of government schools, the Minister may make provision for the membership of school councils in an Order made under section 2.3.2 of the Act and the eligibility of principals is dealt with under Part 2.4 of the Act (including applicable Ministerial Orders).

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#### Schedule 4 clause 15 of the Education and Training Reform Regulations 2017

Responsible person means—

- (a) if the proprietor is an individual, that person; or
- (b) if the proprietor is a body, that body and any person who is concerned in, or takes part in, the management of the body; or
- (c) each person with responsibility in the school governance structure for managing the school or its finances, including each member of the governing body of the school; or
- (d) the principal of the school; or
- (e) any other person who by the person's conduct assumes a position of authority over the governance or management of the school.

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#### Part 1 of the Education and Training Reform Regulations 2017

## Philosophy

A school must have a clear philosophy and be able to demonstrate how it is enacted.

### Evidence requirements

There must be evidence of:

- a statement of the school's philosophy which includes the vision, mission, values and objectives of the school
- a description of how the school enacts its philosophy
- an outline of where the school has published a statement of its philosophy.

**Explanatory notes**

The school's philosophy statement communicates the nature of the school to current and prospective staff, students, parents and guardians. It provides a foundation for the school's strategic planning decisions and performance reviews. The philosophy statement could be contained in the school's constitution, prospectus, handbook, strategic plan or business plan, or on the school website.

**Regulatory context**

A registered school must publish a clear statement of its philosophy, and be able to demonstrate how the school's philosophy is enacted.

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Schedule 4 clause 16 of the Education and Training Reform Regulations 2017

# Enrolment

## Student enrolment numbers

A school must have sufficient students to be able to provide a range of curriculum programs and learning experiences to support students' academic and social development.

### Evidence requirements

*For a school applying to register*

There must be evidence in the form of the forecast number of enrolments, as declared in the application to register a school form. The actual numbers must be provided to the VRQA as soon as they become known or available.

*For a registered school*

There must be evidence in the form of the enrolment register that records that the school has as many or more students than the minimum number required by the standard, or than the minimum number as otherwise approved by the VRQA.

### Explanatory notes

The minimum enrolment number is 20 students.

The minimum enrolment number is 11 for:

- a specialist school
- a primary school located outside:
  - the Melbourne Statistical Area, or
  - an Urban Centre with 20,000 people or more.

A secondary school must have an average enrolment of 10 or more students for each year level for which the school is registered.

A school may seek an exemption from the minimum enrolment number if it can satisfy the VRQA that the school meets the requirements of regulation 62 (detailed in the Regulatory context).

### Regulatory context

- (1) A registered school must have a minimum of 20 students enrolled in the school.
- (2) A secondary school must have an average enrolment of 10 or more students for each year level for which the school is registered.
- (3) Subclause (1) does not apply to a school with an enrolment of 11 or more students if the school is—
  - (a) a primary school that is not located within—
    - (i) the Melbourne Statistical Area; or
    - (ii) an Urban Centre in Victoria with a population of 20 000 or more; or
  - (b) a specialist school.

---

Schedule 4 clause 7 of the Education and Training Reform Regulations 2017.

62 Exemption from student enrolment numbers standard

The Authority may approve an enrolment number for a school that is lower than the enrolment number specified under clause 7(1), (2) or (3) of Schedule 4 for that school if the Authority is satisfied—

- (a) that sufficient students are enrolled at the school to enable the school to provide opportunities for students to receive instruction commensurate with the year level of education in which students are enrolled—

- (i) that taken as a whole, substantially addresses the learning areas set out in Schedule 1 to the Act unless the school is exempt under regulation 61; or
- (ii) in the case of a school registered or to be registered for a specific purpose, that reflects the type of educational program relating to that registration; or
- (b) that special circumstances apply, in which case the Authority must publish the reason for approving the lower enrolment number on the Authority's website.

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Regulation 62 of the Education and Training Reform Regulations 2017.

## Enrolment policy

A school must have a clear enrolment policy that complies with all applicable State and Commonwealth laws including those relating to discrimination and the duty to make reasonable adjustments, equal opportunity, privacy, immunisation and the Australian Consumer Law.

### Evidence requirements

There must be evidence of the school's:

- enrolment policy and procedures which make clear who is eligible for enrolment as a domestic student
- enrolment agreement with parents or guardians which complies with all State and Commonwealth laws, including the Australian Consumer Law. The agreement must be publically available and cover, at a minimum:
  - codes of conduct for students, and parents and guardians
  - fees
  - educational services provided
  - the grounds on which the agreement may be terminated
- for government schools, parents and guardians must be able to access enrolment forms, the parent payment policy and a schedule of charges for the school.

### Regulatory context

- (1) A registered school must have a clearly defined enrolment policy that complies with all applicable State and Commonwealth laws.
- (2) Despite clause 1 (1), a registered school established by a particular religious denomination or by a group of religious denominations may have an enrolment policy that gives preference to adherents of that religious denomination or denominations or their children.

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Schedule 4 clause 8 of the Education and Training Reform Regulations 2017

## Register of enrolments

A school must maintain an enrolment register that contains the required information and allows for accurate data collection for census purposes.

### Evidence requirements

There must be evidence in the form of:

- the school's enrolment register
- processes and procedures to ensure the enrolment register is kept up-to-date.

### Explanatory notes

Enrolment and attendance registers serve different purposes. The enrolment register records the total number of students enrolled in the school, whereas the main purpose of the attendance register is to record the daily attendance of each student and reasons for any absences (see [page 16](#) for details on the attendance register).

## Regulatory context

A registered school must maintain a register of enrolments that contains the following information in relation to each student enrolled at the school—

- (a) the student's name, age and address;
- (b) the name and contact details of any parent or guardian of the student;
- (c) the date of enrolment of the student;
- (d) the Victorian student number allocated to the student under Part 5.3A of the Act;
- (e) the date that the student ceases to be enrolled at the school (if applicable).

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Schedule 4 clause 9 of the Education and Training Reform Regulations 2017

## Attendance register

A registered school must maintain a student attendance register recording the attendance of students of compulsory school age (6–17 years). An attendance register records any unexplained absences to ensure:

- the care, safety and welfare of students
- continuity of learning.

An attendance register must record student attendance at least twice a day and record any given or apparent reason for student absences.

## Evidence requirements

*For a school applying to register*

There must be evidence of the form that the attendance register will take.

*For a registered school*

There must be evidence in the form of an attendance register that records attendance of all students enrolled at the school, for each calendar year. The register must show twice-daily attendance checks and any given or apparent reasons for absence.

## Explanatory notes

Under section 2.1.4 of the Act a school principal or teacher may ask a parent for an explanation if their child has been absent from school. The section also requires the principal to keep a record in writing of the reasons (if any) given by the parent.

## Regulatory context

A registered school must maintain a student attendance register in which—

- (a) the attendance at the school of any student of compulsory school age is noted at least twice on each school day; and
- (b) any reason given or apparent for the absence of the student from the school is noted.

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Schedule 4 clause 11 of the Education and Training Reform Regulations 2017

## Legislative context

- (1) The principal of, or a teacher at, a registered school at which a child of compulsory school age is enrolled may ask a parent of the child for an explanation of the reason for the child's failure to attend the school at a time when the school was open for the child's instruction.
- (2) The principal must ensure that record in writing is made of the reason (if any) given by the parent.

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Part 2.1.4 of the *Education and Training Reform Act 2006*

# Curriculum and student learning

## Curriculum framework

A school provides all students with a planned and structured curriculum to equip them with the knowledge, skills and attributes needed to complete their schooling and to make a successful transition from school to work, training or further education.

## Evidence requirements

There must be evidence of:

- a curriculum plan showing how the learning areas will be substantially addressed and how the curriculum will be organised and implemented
- an explanation of how and when the curriculum and teaching practice will be reviewed
- an outline of how the school will deliver its curriculum.

## Explanatory notes

The learning areas are:

- English
- mathematics
- sciences (including physics, chemistry and biology)
- humanities and social sciences (including history, geography, economics, business, civics and citizenship)
- the arts
- languages
- health and physical education
- information and communication technology, and design and technology.

The VRQA may exempt a school from addressing one or more of the learning areas if the school is a specialist school, registered for a specific purpose or for other reasons determined by the VRQA (regulation 61, ETR Regulations).

Schools offering a senior secondary qualification must meet the requirements of the relevant awarding body (refer to [page 28](#)).

Schools seeking Commonwealth funding are required to deliver the Australian Curriculum or an Australian Curriculum, Assessment and Reporting Authority approved curriculum.

## Regulatory context

A registered school must have a curriculum framework in place—

- |     |  |
|-----|--|
| (a) | for the organisation and implementation of the school's curriculum and teaching practices; and                         |
| (b) | to ensure that, taken as a whole, the learning areas set out in Schedule 1 to the Act are substantially addressed; and |
| (c) | to provide for the review of the curriculum and teaching practices.  |

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Schedule 4 clause 6 of the Education and Training Reform Regulations 2017. Exceptions apply, see explanatory notes.

## Student learning outcomes

A school must have appropriate processes in place to support all its students to progress towards and achieve the learning outcomes normally expected for its student cohort, and for the school to plan for and achieve improvements in those learning outcomes.

### Evidence requirements

There must be evidence in the form of a documented strategy to improve student learning outcomes.

The strategy must include:

- policies and procedures for reviewing the curriculum and teaching practices
- the processes the school will use to set goals and targets for outcomes for all students including students at risk
- what data will be collected, and how it will be analysed and used to improve student learning outcomes.

### Regulatory context

The registered school must have processes in place that enable it to plan for, and achieve improvement in, student learning outcomes.

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Schedule 4 clause 2 of the Education and Training Reform Regulations 2017

## Monitoring and reporting on students' performance

A school must undertake ongoing assessment, monitoring and recording of all students' performance and report on performance, in writing, to parents and guardians at least twice a year.

### Evidence requirements

There must be evidence in the form of the school's policies and procedures for assessing and monitoring student progress and achievement, and how this is reported to parents and guardians. This evidence must include statements about how it meets Commonwealth Government student reporting requirements.

### Regulatory context

- (1) A registered school must ensure that—
  - (a) there is ongoing assessment, monitoring and recording of each student's performance at the school; and
  - (b) each parent of a student enrolled at the school and the student has access to accurate information about the student's performance at the school.
- (2) The access to information must include at least 2 written reports, relating to the student's performance, from the registered school to the parent in each year of enrolment of the student.

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Schedule 4 clause 3 of the Education and Training Reform Regulations 2017

## Information about school performance

A school must monitor and report to the school community on its performance as outlined in the ETR Regulations (see **Regulatory context** for further detail).

### Evidence requirements

There must be evidence of:

- a copy of the school's annual report that contains the mandatory information
- information required under regulation 60 of the Australian Education Regulations 2013, which lists the information a school must make publicly available as a condition of Commonwealth funding and details of how the school community can access the information.

**Regulatory context**

- (1) A registered school must make available to the school community information concerning the school's performance at least once a year.
- (2) The information must include—
  - (a) a description and analysis of student learning outcomes achieved by the school's students in state wide tests and examinations in which the school participates for—
    - (i) the current year; and
    - (ii) if the school has been established for more than 2 years, the previous 2 years; and
  - (b) a description and analysis of rates of student attendance for the year; and
  - (c) a report of the school's financial activities; and
  - (d) copies of any other reports the school is required to prepare for the school community under any funding agreements with the State or the Commonwealth.

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Schedule 4 clause 18 of the Education and Training Reform Regulations 2017



# Care, safety and welfare of students

A school must have policies and procedures to provide students with a safe environment where the risk of harm is minimised and students feel safe. The school is responsible for ensuring all staff are aware of their legal obligations.

## Evidence requirements

There must be evidence of the school's policies and procedures for:

- the duty of care owed to students including:
  - that it owes all students a duty of care to take reasonable measures to protect them from reasonably foreseeable risks of injury
  - that it owes a duty to take reasonable care that any student (and other persons) on the premises will not be injured or damaged because of the state of the premises, including things done or omitted to be done to the premises
  - that it owes a duty to take reasonable precautions to prevent the abuse of a child by an individual associated with the organisation while the child is under the care, supervision or authority of the organisation
  - that different and sometimes greater measures may need to be taken for younger students or students with disabilities to discharge this duty of care
- when it may be necessary to use restrictive interventions to protect the safety of a student and members of the school community
- managing student wellbeing, including:
  - anti-bullying and harassment, including cyber bullying
  - appropriate arrangements for on-site supervision of students
  - appropriate arrangements for supervision of students when engaged in off-site activities and which include consideration of the risk of bushfire in the activity location (refer to Emergency Bushfire Management on [page 22](#))
  - ensuring the safety and welfare of students learning with another provider (when the school contracts with another school, a registered training organisation or an organisation not registered as an education or training provider)
  - arrangements for ill students
  - accident and incident register
  - first aid
  - distributing medicine
  - internet use
- managing complaints and grievances including how the school's policies and procedures:
  - ensure procedural fairness
  - are accessible to the school community and are consistent with the school's enrolment agreement.

There must be evidence of the school's:

- current register of staff trained in first aid
- records of student medical conditions and management, or a pro forma for a school applying to register
- emergency management plan which must be updated as required, reviewed at least annually and immediately after any significant incident (this plan must be site specific and include local threats, hazards and corresponding response procedures).

There must also be evidence of how the school communicates policies and procedures on the care, safety and welfare of students to staff, students, parents, guardians and the school community.

### Explanatory notes

An emergency management plan addresses emergency and critical incidents which include:

- circumstances that pose a critical risk to the health, safety or wellbeing of one or more students or staff
- incidents requiring school closure, lockdown, or reduction of number of students or staff attending
- death or serious injury of a student or staff member at school or at another location authorised by the school, for example, with another provider such as a registered training organisation.

A school should update the emergency management plan as required throughout the course of the year as activities such as school camps and excursions are approved by the school governing body.

### Regulatory context

A registered school must ensure that—

- (a) the care, safety and welfare of all students attending the school is in accordance with any applicable State and Commonwealth laws; and
- (b) all staff employed at the school are advised of their obligations under those laws.

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Schedule 4 clause 12 of the Education and Training Reform Regulations 2017

### Child safety

There must be evidence of the school's policies and procedures for ensuring all staff understand:

- mandatory reporting
- the failure to disclose offence
- the failure to protect offence.

These offences are explained in [Appendix 1](#). For more information about mandatory reporting, the failure to disclose and the failure to protect offence, see:

- [www.dhhs.vic.gov.au](http://www.dhhs.vic.gov.au)

### Child Safe Standards

A registered school must have developed policies, procedures, measures and practices in accordance with Ministerial Order No. 870 Child Safe Standards – Managing the risk of child abuse in schools.

Meeting the requirements of the Ministerial Order is the direct responsibility of the school governing body and the school principal.

The school must have clear policies and procedures in place which are appropriate for its student cohort and consistent with the school's philosophy.

The VRQA has a number of resources to help schools meet their compliance requirements.

For more information, see:

- [www.vrqa.vic.gov.au/schools](http://www.vrqa.vic.gov.au/schools)

For more information, see:

- <http://www.gazette.vic.gov.au/gazette/Gazettes2016/GG2016S002.pdf>

### Reportable Conduct Scheme

Under the Reportable Conduct Scheme, a head of an organisation is required to notify the Commission for Children and Young People of all allegations of reportable conduct by employees and volunteers.

More information is available at:

- [www.ccyp.vic.gov.au](http://www.ccyp.vic.gov.au)

### Legislative context

The school (must have) developed policies, procedures, measures and practices in accordance with a Ministerial Order for managing the risk of child abuse including—

- (i) the implementation of minimum standards for a child safe environment; and
- (ii) responding to allegations of child abuse committed against a child enrolled at the school or committed by an employee or a student, contractor or volunteer of the school or other person connected with the school.

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Section 4.3.1(6)(d) of the *Education and Training Reform Act 2006*

### Anaphylaxis management policy

A registered school must have developed a policy and have procedures in place for any student at risk of anaphylaxis.

The policy and procedures must be in accordance with Ministerial Order No. 706.

The VRQA has resources to help schools. For more information, see:

- [www.vrqa.vic.gov.au/schools](http://www.vrqa.vic.gov.au/schools)

For a copy of the Ministerial Order, see:

- [www.gazette.vic.gov.au/gazette/Gazettes2015/GG2015G050.pdf#page=26](http://www.gazette.vic.gov.au/gazette/Gazettes2015/GG2015G050.pdf#page=26)

### Legislative context

If the school has enrolled a student in circumstances where the school knows, or ought reasonably to know, that the student has been diagnosed as being at risk of anaphylaxis, the school has developed an anaphylaxis management policy containing matters required by a Ministerial Order to be included in the policy

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Section 4.3.1(6)(c) of the *Education and Training Reform Act 2006*

### Emergency bushfire management

All registered schools are required to meet the VRQA Guidelines for Bushfire Preparedness— Registered Schools.

These requirements are in addition to a school's obligations under the minimum standard for the care, safety and welfare of students and the minimum standard relating to buildings, facilities and grounds.

There are additional requirements for schools listed on the DET's Bushfire At-Risk Register.

To find out if your school is to be placed on the Bushfire At-Risk Register, contact:

- [emergency.management@education.vic.gov.au](mailto:emergency.management@education.vic.gov.au)

For more information on bushfire preparedness, see:

- [www.vrqa.vic.gov.au/schools](http://www.vrqa.vic.gov.au/schools)

## Student behaviour management (discipline)

A school must have policies and procedures to promote a consistent and fair approach toward managing student behaviour.

### Evidence requirements

There must be evidence of:

- a policy that explicitly prohibits corporal punishment
- a behaviour management policy and procedures which include:
  - an explanation of the school's approach to behaviour management and how it affords procedural fairness to students
  - the steps for managing suspensions and expulsions of students and how this is communicated to parents and guardians. For government schools, there must be evidence to demonstrate compliance with Ministerial Order No. 1125— Procedures for Suspension and Expulsion of Students in Government Schools
- procedures for maintaining a register of suspensions and expulsions
- an outline of how the school communicates these policies and procedures to the school community.

### Explanatory notes

Schools use a variety of approaches to promote positive student behaviour and to reduce and resolve conflict. Whatever approach is adopted, it must be clearly communicated to the whole school community.

### Legislative context

A school's policies relating to the discipline of students are based on principles of procedural fairness and must not permit corporal punishment.

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Section 4.3.1(6)(a) of the *Education and Training Reform Act 2006*

## Attendance monitoring

A school must ensure the safety of students while engaged in school activities. A school must have policies and procedures to monitor student attendance and to follow up unexplained absences.

### Evidence requirements

There must be evidence of the school's policy and procedures to:

- check and record the daily attendance of all students
- monitor attendance twice daily and identify absences from school or class
- identify the person(s) with responsibility for monitoring daily attendance
- follow up unexplained absences on the day of a student's absence
- notify parents and guardians of unsatisfactory attendance
- maintain current contact details for parents and guardians
- accurately record attendance on student files.

**Regulatory context**

A registered school must—

- (a) monitor the daily attendance of each student enrolled at the school; and
- (b) identify any absences of a student from school including classes; and
- (c) follow up any unexplained absences of a student from the school or classes; and
- (d) notify any parent or guardian regarding a student's unsatisfactory school or class attendance; and
- (e) record information regarding a student's unsatisfactory attendance at school or classes on the student's file.

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Schedule 4 clause 10 of the Education and Training Reform Regulations 2017

# Staff employment

## Teachers' requirements

A school can only employ teachers registered with the Victorian Institute of Teaching (VIT), or those who have permission to teach under Part 2.6 of the Act.

### Evidence requirements

There must be evidence in the form of:

- a register of teachers containing each teacher's:
  - name
  - VIT teacher registration number
  - expiry and renewal date
  - VIT category of registration (full registration, permission to teach)
- procedures for maintaining the register
- procedures for managing teachers with conditions, limitations or restrictions on their registration or permission to teach.

### Explanatory notes

VIT is responsible for the registration of teachers employed in Victorian schools.

### Regulatory context

All teachers employed to teach at a registered school must—

- (a) be registered under Division 3 of Part 2.6 of the Act or be granted permission to teach under Division 4 of that Part; and
- (b) comply with any condition, limitation or restriction of that registration or permission to teach.

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Schedule 4 clause 4 of the Education and Training Reform Regulations 2017

## Compliance with the *Working with Children Act 2005*

All people employed at a school must meet the requirements of the *Working with Children Act 2005*.

### Evidence requirements

There must be evidence of:

- procedures to ensure that all employees and volunteers required to do so by the *Working with Children Act 2005* have a current Working with Children Check
- a register of employees and volunteers with a Working with Children Check which includes each employee's:
  - name
  - card number
  - expiry date
- procedures for maintaining the register.

### Explanatory notes

The *Working with Children Act 2005* requires all employees, contractors and volunteers to obtain a Working with

Children Check if they are engaged in child related work.

Child related work:

- involves contact that is direct and a part of the person's duties, and
- includes but is not limited to work at or the following activities: a school or other educational institution, accommodation services provided for students on an overseas student exchange program (including homestay), coaching or tuition services for children, publicly funded or commercial transport services for children, counselling, overnight camps, school crossing services, commercial photography services specifically for children, any work engaged in by a minister of religion unless any direct contact with children is only occasional and incidental to that person's work.

For a full list of what constitutes child related work schools should refer to section 9 of the *Working with Children Act 2005*.

A teacher registered with VIT does not need a Working with Children Check.

A teacher whose registration is suspended is not registered and must not teach. If they are employed in a non-teaching capacity they need a Working with Children Check.

For more information about who needs to apply for a Working with Children Check, see:

- [www.justice.vic.gov.au/workingwithchildren](http://www.justice.vic.gov.au/workingwithchildren)

### Regulatory context

The requirements of the *Working with Children Act 2005* must be complied with in respect of the employment of all staff at a registered school.

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Schedule 4 clause 5 of the Education and Training Reform Regulations 2017

# School infrastructure

## Buildings, facilities and grounds

A school's buildings, facilities and grounds must meet all legal and health and safety requirements.

### Evidence requirements

There must be evidence of:

- a permit to operate an education centre on the site
- building and facility compliance with local planning regulations and with the Building Code of Australia, Class 9b or equivalent
- an essential safety register
- a maintenance schedule for buildings, facilities and grounds
- policy and procedures to ensure the school complies with the *Occupational Health and Safety Act 2004*
- documentation that reasonable adjustments have been made for students with a disability.

### Explanatory notes

A school may choose to seek advice from an external agency such as:

- the Victorian WorkCover Authority to establish its compliance with occupational health and safety requirements
- the Victorian Building Authority or local municipal building surveyor to establish its compliance with relevant building legislation including matters relating to combustible cladding including expanded polystyrene or aluminium composite panels with a polyethylene core.

A school on the Bushfire At-Risk Register with an on-site 'shelter-in-place' must comply with the *VRQA Guidelines for Bushfire Preparedness— Registered Schools*. Refer to [page 22](#) of the Guidelines.

- In some cases, a certificate of continual use can be provided in lieu of a Building Code of Australia, Class 9b.

### Regulatory context

A registered school's buildings, facilities and grounds must comply with any laws that apply to the school including local laws and building, planning and occupational health and safety laws.

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Schedule 4 clause 13 of the Education and Training Reform Regulations 2017

## Educational facilities

A school's facilities must be adequate for delivery of the school's curriculum and co-curricular programs and suit its student cohorts' age and needs.

The school must be prepared to make reasonable adjustments to accommodate students with additional needs.

### Evidence requirements

There must be evidence in the form of a plan of the school showing the location of facilities available for each program offered across the school day.

### Regulatory context

The educational facilities of a registered school must be suitable for the educational programs offered by the school and the age levels of the students attending the school.

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Schedule 4 clause 14 of the Education and Training Reform Regulations 2017



# The minimum standards for schools offering a senior secondary course

## Victorian accredited senior secondary courses and qualifications

A **senior secondary awarding body** awards, confers or issues an accredited senior secondary qualification. The Victorian Curriculum and Assessment Authority (VCAA) and the International Baccalaureate (IB) are registered by the VRQA as awarding bodies.

In Victoria, the accredited senior secondary qualifications are the VCE, VCAL and the IB Diploma Programme.

Schools applying to offer a senior secondary qualification must meet the minimum standards for schools as set out in the Act and the ETR Regulations, as well as the minimum standards for registration to provide an accredited senior secondary course (Schedule 9, regulation 86, ETR Regulations).

Schools must also obtain VCAA or/and IB authorisation to deliver their respective courses.

A senior secondary course comprises units or subjects of study, which upon successful completion of the course requirements, leads to a qualification.

Schools will generally apply to offer an accredited senior secondary course after successfully delivering a Years 7–10 program for a number of years.

## Requirements for delivering a senior secondary course

The requirements for registration to deliver the VCE, VCAL or IB Diploma Programme ensure the school is able to demonstrate it can provide a quality program to its students in the final years of their school education.

If the school shares responsibility for delivering a senior secondary course with another provider, there must be evidence in the form of a copy of a written agreement between the school and the provider stating how the requirements of the minimum standards for delivery of a senior secondary course will be met.

## Principles to apply

The evidence required for this standard is addressed in the standard for a registered school under **School governance – Democratic principles** on [page 8](#).

## Regulatory context

- (1) The programs and teaching of a senior secondary education provider must support and promote the principles and practice of Australian democracy, including a commitment to—
  - (a) elected government; and
  - (b) the rule of law; and
  - (c) equal rights for all before the law; and
  - (d) freedom of religion; and
  - (e) freedom of speech and association; and
  - (f) the values of openness and tolerance

- (2) Nothing in this clause is intended to affect any right accorded to, or compliance with any obligation imposed on, a provider under an enactment of the State or of the Commonwealth.

---

Schedule 8 clause 1 of the Education and Training Reform Regulations 2017

## Governance and probity

A registered school delivering an accredited senior secondary course must have its governance structured to effectively manage its:

- finances
- physical environment of each place where the course is offered
- staff
- students.

## Evidence requirements

A school will need to demonstrate it complies with the minimum standard for school registration relating to **Governance** ([page 8](#)) and **Not-for-profit** ([page 9](#)).

In addition there must be evidence that:

- the physical environment is sufficient to support the delivery of the course
- teachers are suitably qualified and experienced
- there are procedures to support students to undertake a course best suited to their abilities
- there are sufficient financial resources to deliver the course to the standards of the awarding body.

## Regulatory context

- (1) The governance and management of a senior secondary education provider must be structured to enable the provider to effectively manage—
  - (a) the finances of the provider; and
  - (b) the physical environment of each place where the course is offered by the provider; and
  - (c) the staff of the provider; and
  - (d) the students enrolled in the course offered by the provider.
- (2) A senior secondary provider must ensure that suitable arrangements are in place to enable—
  - (a) the provider to respond to and supply any information requested by the Authority in regard to matters listed in section 4.3.11 (2) of the Act; and
  - (b) the provider to comply with any relevant guidelines issued by the Authority under section 4.3.11 (3) of the Act; and
  - (c) the Authority to conduct an audit on the operation of the person, body or school in relation to the prescribed minimum standards.
- (3) If a senior secondary education provider is not the owner of the accredited senior secondary course, the provider must—
  - (a) be authorised by the owner of the course to provide that course; and
  - (b) comply with the conditions relating to that authorisation.
- (4) A senior secondary education provider must not provide instruction in an accredited senior secondary course at a school unless it is a registered school.

---

Schedule 8 clause 6 of the Education and Training Reform Regulations 2017

## Student learning outcomes

A registered school must deliver the course to the awarding body's standards and ensure students who complete the course requirements are awarded the qualification.

### Evidence requirements

There must be evidence of:

- course curriculum and assessment documentation, and student attainment and administration documentation in accordance with the requirements of the awarding body
- documentation to demonstrate that the school provides staff and students with current and accurate information about the awarding bodies' requirements including course standards, timelines and qualification requirements.

### Regulatory context

A senior secondary education provider that provides, or proposes to provide, an accredited senior secondary course must—

- (a) deliver the course to the standards established by the awarding body for the qualification; and
- (b) ensure that a student who satisfactorily completes all of the course requirements will be entitled to be awarded the registered qualification.

---

Schedule 8 clause 2 of the Education and Training Reform Regulations 2017

## Student records and results

A school must have policies and procedures to ensure the integrity of assessment, the accuracy of records and the monitoring of student participation, completion rates and student outcomes. The policies and procedures must also cover results analysis and student participation in accordance with the requirements of the awarding body.

### Evidence requirements

There must be evidence of policies and procedures to ensure the:

- integrity of assessment
- accuracy of records
- monitoring of student participation, completion rates and student outcomes.

The policies and procedures must also cover results analysis and student participation in accordance with the requirements of the awarding body.

### Regulatory context

- (1) A senior secondary education provider must have policies and procedures in place—
  - (a) to maintain accurate student records and ensure the integrity of student assessments; and
  - (b) if the provider is—
    - (i) not the awarding body, to enable compliance with the requirements of the awarding body for the course with regard to the assessment program and the timely provision of student enrolments and results; or
    - (ii) also the awarding body, to deal with the assessment program and the timely provision of student enrolments and results; and
  - (a) to monitor patterns of student participation and completion rates, and the quality of outcomes of students in the registered senior secondary education qualification; and
  - (b) to undertake an annual analysis (that is made publicly available) of student participation and completion rates and outcomes.
- (2) A senior secondary education provider must—
  - (a) prepare and maintain records of student assessments; and
  - (b) comply with appropriate requests to provide copies of a student's records to the student or a person authorised by the student to receive the records.
- (3) A senior secondary education provider must have processes in place that comply with the requirements of the awarding body for the course for—

- (a) the accurate and timely issuing of qualifications; and
- (b) for the retention, archiving and retrieval of sufficient information about student enrolments and results to enable the re-issue of statements and certificates if required.

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Schedule 8 clause 4 of the Education and Training Reform Regulations 2017

## Student welfare

A school must have policies and procedures to ensure the care, safety and welfare of its students. There must also be opportunities for students with special needs to access the course.

A school must have appropriate procedures in place to manage the care, safety and welfare of students where two or more senior secondary education providers share the responsibility for providing an accredited senior secondary course.

## Evidence requirements

The policies and procedures required to meet this standard are covered in **Care, safety and welfare** of the minimum standards for school registration on [page 20](#).

The policies and procedures must cover any additional arrangements the school has in place for senior secondary students, for example:

- how attendance is monitored for students participating in courses provided by another senior secondary course provider
- supervision of students outside scheduled classes.

The policies and procedures should also address how the school identifies students' special needs and how opportunities are provided so those students can access the senior secondary course.

## Regulatory context

- (1) A senior secondary education provider must have policies and procedures in place that are consistent with any relevant laws and legislation to ensure the care, safety and welfare of students and the provision of opportunities for students with special needs to access the course.
- (2) If two or more senior secondary education providers share the responsibility for providing an accredited senior secondary course or its components to a student, each of those providers must have procedures in place to identify and satisfy the legal duties owed to the student while the student attends, travels between or undertakes an excursion with the providers.

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Schedule 8 clause 3 of the Education and Training Reform Regulations 2017

## Teaching and learning

A school must have suitable teaching resources, physical facilities, and competent and qualified staff to teach and assess the course.

### Evidence requirements

There must be evidence of:

- an overview of teaching resources and facilities and that they meet the current requirements of the awarding body
- policies and procedures:
  - to ensure the assessment of senior secondary courses is fair, valid and reliable
  - to oversee the conduct of assessments including:
    - addressing cheating, including plagiarism
    - conducting investigations and hearings and if necessary, amending or cancelling assessments
- a student handbook and resources which address the senior secondary course rules and procedures for assessment.

### Regulatory context

A senior secondary education provider must have—

- (a) qualified and competent staff to teach and assess the course; and
- (b) suitable teaching resources and physical facilities to provide the course; and
- (c) processes to ensure the consistent application of assessment criteria and practices; and
- (d) processes to oversee the conduct of assessments of the course including processes to conduct investigations and hearings and, if necessary, amend or cancel assessments.

---

Schedule 8 clause 5 of the Education and Training Reform Regulations 2017

# Other requirements for school registration

## Reporting to the VRQA

A school, upon request, must provide the VRQA with the information it needs to carry out its responsibilities under the Act and ETR Regulations.

### Explanatory notes

Once a school is registered, the VRQA may require the proprietor, principal or review body to provide a report that:

- enables the VRQA to assess whether the school is continuing to comply with the minimum standards or other requirements
- informs the VRQA of any changes to a school's details contained in the State Register
- provides information about any complaint made about the school and how the principal responded to the complaint.

The VRQA will give the proprietor or principal a reasonable time to comply with its request for information. The proprietor or principal must comply with the request within the time specified. The VRQA's request and the information provided must be in writing, unless the parties agree otherwise.

### Regulatory context

The proprietor or principal of a registered school must provide to the Authority in accordance with the regulations a report containing the information required by the regulations.

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Section 4.3.5(1) of the *Education and Training Reform Act 2006*

Regulation 71 (1) of the Education and Training Reform Regulations 2017 lists the relevant information for the purpose of the above section and is reproduced below.

71(1) For the purpose of section 4.3.5(1) of the Act, the proprietor or principal of a registered school, or a person or body authorised by the Authority under section 4.3.5(2) of the Act, must provide a report containing the following information—

- (a) information to show that, and enable the Authority to assess whether, the registered school—
  - (i) continues to comply with each of the prescribed minimum standards for registration set out in Schedule 4; and
  - (ii) complies with any other requirements of the Act or these Regulations; and
- (b) information to advise the Authority of any changes in the details contained in the State Register relating to the school; and
- (c) at the request of the Authority, information to advise the Authority of—
  - (i) information to advise the Authority of—
    - (A) any complaint lodged by any member of the public alleging any breach by the school of an obligation under these Regulations to implement any of the principles in section 1.2.1(a), (c), (e) and (f) of the Act; and
    - (B) how the principal of the school responded to that complaint
  - (ii) a copy of the information made available under clause 18 of Schedule 4.

---

Regulation 71(1) of the Education and Training Reform Regulations 2017

## Amending school registration

A school wishing to amend its registration must make an application to the VRQA if they wish to:

- add an additional year level
- add an additional campus
- change a school's type of registration
- change the proprietor of the school, or
- change any other particular of its registration.

The VRQA does not accept direct applications from Catholic or government schools. Catholic schools should make their application through CECV and government schools through DET's Regional Services Group.

School registration is not transferrable. If a school wishes to change its legal entity, for example, move from an unincorporated association to a company limited by guarantee, it must make an application for registration. A school wishing to change legal entity should contact the VRQA at:

- [vrqa.schools@education.vic.gov.au](mailto:vrqa.schools@education.vic.gov.au)

## Regulatory context

The following persons may apply to the Authority for an amendment to the registration of a registered school—

- (a) in the case of a Government school, the Secretary;
- (b) in the case of a non-government school, the principal or the proprietor of the school.

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Regulation 67 of the Education and Training Reform Regulations 2017

Timing of application

(1) Subject to subregulation (3), an application must be made to the Authority no later than—

- (a) 30 June in the year before the year in which the school intends to implement the change to the school that is the subject of the application to amend the registration; or
- (b) a later date in the year determined by the Authority

(2) The Authority may publish a notice in the Government Gazette of any later date determined under subregulation (1)(b) at least 4 weeks before 30 June in the year in which the date applies

(3) The Authority may accept an application submitted after the date specified in subregulation (1) if it is satisfied that it is necessary to do so because of the special circumstances of the case.

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Regulation 68 of the Education and Training Reform Regulations 2017

## Adding a year level

A registered school must seek VRQA approval to provide an additional year level.

### Evidence requirements

Applications must be in writing on the relevant application form. For more information, see:

- [www.vrqa.vic.gov.au/schools](http://www.vrqa.vic.gov.au/schools)

### Regulatory context

A registered school must—

- (a) offer only the levels of education in respect of which the school is registered

---

Schedule 4 clause 22 of the Education and Training Reform Regulations 2017

- (b) In the case of an application to include an additional year level of education at the school—
  - (i) contain all the particulars and information listed in Schedule 7; and
  - (ii) be accompanied by evidence that the school will continue to be conducted as a not-for-profit school

---

Regulation 69(c) of the Education and Training Reform Regulations 2017

## Establishing an additional campus

A registered school intending to establish an additional campus must make an application to the VRQA to amend its registration.

### Evidence requirements

Applications must be in writing on the relevant application form. To access the form, see:

- [www.vrqa.vic.gov.au/schools](http://www.vrqa.vic.gov.au/schools)

### Explanatory notes

The ETR Regulations provide a definition of **campus** which is available at [Appendix 1](#).

### Regulatory context

A registered school must only be conducted at the campus or place (excluding school camps or excursions or places outside of Victoria) in respect of which it is registered.

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Schedule 4 clause 22 of the Education and Training Reform Regulations 2017

- (b) in the case an application to include an additional campus at the school—
  - (i) contain all the particulars and information listed in Schedule 6; and
  - (ii) be accompanied by any documentation referred to in Schedule 6; and evidence that the school will continue to be conducted as a not-for-profit school

---

Regulation 69(b) of the Education and Training Reform Regulations 2017



## Changing a school's type of registration

A school must be registered as one or more of the following types:

- a primary school
- a secondary school
- a co-educational school
- a single sex school
- a specific purpose school, such as a school that provides an alternative educational program
- a specialist school, such as a school that caters mainly for students with disabilities or with social, emotional or behavioural difficulties (Schedule 5, clause 10, ETR Regulations).

A registered school intending to vary its registration type, must make an application to the VRQA to amend its registration.

### Evidence requirements

A school that intends to vary its type of registration must ensure that it meets all the minimum standards as they apply to its intended type of registration.

Evidence is required if a variation of registration is likely to affect compliance with other standards, such as:

- philosophy
- enrolment
- attendance
- curriculum framework
- educational facilities
- arrangements for the care, safety and welfare of students.

Applications must be in writing. For more information, see:

- [www.vrqa.vic.gov.au/schools](http://www.vrqa.vic.gov.au/schools)

### Regulatory context

A school must only be conducted as the type of school in respect of which it is registered.

Schedule 4 clause 22 of the Education and Training Reform Regulations 2017

## All other applications

A registered school wishing to make changes to its registration must make an application to the VRQA to amend its registration.

The application must include any information or documents the VRQA reasonably requires to assess the application. The information and documents requested will depend upon the nature of the change a school wishes to make to its registration.

## Evidence requirements

Applications must be in writing. For more information, contact the VRQA at:

- [vrqa.schools@education.vic.gov.au](mailto:vrqa.schools@education.vic.gov.au)

## Regulatory context

In any other case, an application must include any particulars or information, and be accompanied by any documentation, which the Authority reasonably requires for the purpose of assessing the application

---

Regulation 69(d) of the Education and Training Reform Regulations 2017

# Appendix 1

## Definitions

Unless otherwise stated, words or phrases in this appendix have the following meaning:

**Accredited Senior Secondary Course** – means a course leading to a senior secondary qualification and any other accredited course pertaining to Year 11 or 12 that is accredited by the Authority under Chapter 4 of the Act.

**Awarding body** – means a person or body that is registered on the State Register to award, confer or issue a registered qualification.

**Campus** – the regulations state that '**campus**' means a location at which part of a school is conducted or proposed to be conducted under the name of the campus as part of a registered school and -

- a) the campus and the school have a common governing body or the governing body of the campus is responsible to the governing body of the school; and
- b) in the case of a non-government school, the campus and the school have the same proprietor.

**Conduct** – of a school, includes:

- a) fund-raising activities conducted solely for the school; and
- b) the provision of goods and services and other matters or things to students attending the school; and
- c) the provision of other educational services that are within the scope of the school's registration.

**Entity** includes a trust.

### Mandatory reporting, failure to disclose and failure to protect

- the **mandatory reporting obligation** is set out in Part 4.4 of the *Children, Youth and Families Act 2005*. Section 184 imposes an obligation on teachers, principals and other persons listed in section 182, to make a mandatory report if they form a belief on reasonable grounds that a child is in need of protection on the grounds that the child has suffered, or is likely to suffer, significant harm because of physical injury or sexual abuse, and the child's parents have not protected, or are unlikely to protect, the child from harm of that type.
- the **failure to disclose offence** requires any adult (subject to specific exemptions) who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16, to report that information to police. Failure to disclose the information to police is a criminal offence. Further information can be obtained at:
  - <https://www.justice.vic.gov.au/safer-communities/protecting-children-and-families/failure-to-disclose-offence>
- the **failure to protect offence** applies where there is a substantial risk that a child under the age of 16 under the care, supervision or authority of a school will become a victim of a sexual offence committed by an adult associated with that school. A person in a position of authority in the school will commit the offence if they know of the risk of abuse and have the power or responsibility to reduce or remove the risk, but negligently fail to do so. Organisations other than schools are also covered by the offence. Further information is available at:
  - <https://www.justice.vic.gov.au/safer-communities/protecting-children-and-families/failure-to-protect-a-new-criminal-offence-to>

**Melbourne Statistical Area** – the area comprising the Greater Melbourne Statistical Area described in Australian Statistical Geography Standard (ASGS): Volume 1 – Main Structure and Greater Capital City Statistical Areas, July 2016, published by the Australian Bureau of Statistics.

**Overseas student** a person holding a visa under the *Migration Act 1958* of the Commonwealth which allows the person, where expressly or otherwise, to study in Victoria.

**Prohibited agreement or arrangement** means an agreement or arrangement—

- (a) made between two or more of the following parties—
  - (i) the school;
  - (ii) the proprietor of the school;
  - (iii) another person or entity; and
- (b) where the purpose of the agreement or arrangement—
  - (i) is to pay or divert any profit or gain made in the conduct of the school to the proprietor or any other person or entity (other than a payment made in good faith for the provision of goods or services to the school); or
  - (ii) involves a payment by the school or the proprietor of the school (as the case requires) to another person or entity which—
    - (A) is excessive compared to the reasonable market value of the charges, fees, rates or costs currently prevailing in the community for payment for that purpose (other than a payment made in good faith for that purpose); or
    - (B) involves a gift, loan or similar payment for a purpose unconnected to the conduct of the school (other than payments made to a bank in connection with the conduct of the school); or
    - (C) is otherwise not a payment made in good faith for the benefit of the school, or reasonably required for the conduct of the school;

Payments under paragraph (b)(ii)(A) may include excessive fees or remuneration or other expenses paid to members of the school's governing body, or excessive rents, fees, or other charges paid to any other person or entity.

Payments under paragraph (b)(ii)(B) may include loans, guarantees, or indemnities payable for the recipient's own use or benefit; for example, a payment to benefit an enterprise conducted by the payment recipient where that enterprise is unconnected to the conduct of the school.

Payments under paragraph (b)(ii)(C) may include 'sham' arrangements that have the effect of transferring payments from the school to the recipient for the recipient's own purpose or benefit, and which deliver no benefit or service to the school.


**Proprietor** in relation to a school, means:

- a) a person, body, or institution who establishes, owns or controls one or more registered schools; or
- b) any person or body that is specified in the registration of the school as the proprietor of the school.

**Responsible person** means:

- a) if the proprietor is an individual, that person; or
- b) if the proprietor is a body, that body and any person who is concerned in, or takes part in, the management of the body; or
- c) each person with responsibility in the school governance structure for managing the school or its finances, including each member of the governing body of the school; or
- d) the principal of the school; or



- 
- e) any other person who by the person's conduct assumes a position of authority over the governance or management of the school.

**Senior secondary awarding body** – a person or body that proposes to award, confer or issue a registered senior secondary qualification.

**Senior secondary course** – a course leading to a senior secondary qualification or any other course pertaining to Year 11 and 12.

**Senior secondary education provider** – a person, body or school providing or proposing to provide, an accredited senior secondary course.

# Appendix 2

## Abbreviations and Acronyms

**CECV** – Catholic Education Commission of Victoria Ltd

**CRICOS** – Commonwealth Register of Institutions and Courses for Overseas Students

**Cwth** – Commonwealth

**DET** – Victorian Department of Education and Training

**ESOS Act** – *Education Services for Overseas Students Act 2000*

**ETR Act** – *Education and Training Reform Act 2006*

**ETR Regulations** – Education and Training Reform Regulations 2017

**IB** – International Baccalaureate

**VCAL** – Victorian Certificate of Applied Learning

**VCAA** – Victorian Curriculum and Assessment Authority

**VCE** – Victorian Certificate of Education

**VIT** – Victorian Institute of Teaching

**VRQA** – Victorian Registration and Qualifications Authority

**WWWC** – Working With Children Check

## Appendix C





Department of  
**Education**

# GUIDE TO THE REGISTRATION STANDARDS AND OTHER REQUIREMENTS FOR NON-GOVERNMENT SCHOOLS

NON-GOVERNMENT SCHOOL REGULATION

JANUARY 2020

## Guide to the Registration Standards and Other Requirements for Non-Government Schools

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### In this version

- The revised standards determined by the Minister for Education and Training (the Minister) under s.159(1) of the *School Education Act 1999* (the Act) take effect from 1 January 2020. Relevant new definitions have also been determined by the Minister for the purposes of the standards as set out in full in the Appendix to this Guide.
- The Minister has decided not to make a standard relating to the number of children in each year level and to combine into one the standards about premises and facilities. The numbering of most standards has changed.
- Schools should note, in particular, that they are required to implement the National Principles for Child Safe Organisations<sup>1</sup>.
- The policies guiding the Director General's assessment of a school's compliance with the registration standards and any requests for the waiver of certain standards are outlined.

### Applicable legislation

- The *School Education Act 1999*<sup>2</sup> [Part 4 – Non-Government Schools] requires non-government schools to observe the registration standards determined by the Minister [under s.159] and to satisfy the Director General of this and also of the other requirements [set out in s.160(1)] when applying for initial registration, renewal of registration, registration change and **at all other times**.
- Part 4 also enables the Minister and the Director General to require schools and school systems to provide information including statistical, educational and financial information and any other information relating to the registration standards or other requirements at any time [s.156C].

### Consultation

The 2020 registration standards and the information in this Guide have been developed in consultation with the Association of Independent Schools of Western Australia and Catholic Education Western Australia.

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<sup>1</sup> [childsafe.humanrights.gov.au/national-principles](https://childsafe.humanrights.gov.au/national-principles)

<sup>2</sup> [www.legislation.wa.gov.au/legislation/statutes.nsf/law\\_a1960.html](http://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a1960.html)

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# USING THIS GUIDE

This Guide sets out and explains the registration standards and other requirements guiding decisions about the registration of non-government schools.

The registration standards have been determined by the Minister for Education and Training (the Minister) under s.159(1) of the *School Education Act 1999* (the Act). The other requirements which the Director General must take into account are listed in s.160(1) of the Act.

## **The registration standards**

The registration standards determined by the Minister are covered in [Chapter 2](#) and printed in full in the [Appendix](#) together with associated definitions. The interpretation of some registration standards leaves room for the Director General to exercise a judgement while others enable the Director General to waive certain requirements. Chapter 2 also offers guidance on the matters the Director General will take into account in making a judgement or granting a waiver. These are headed 'Director General's considerations'.

## **The other requirements for registration**

The other requirements, listed in s.160(1) of the Act, are:

- school governance – [Chapter 1](#);
- a satisfactory standard of education – [Chapter 3](#);
- satisfactory levels of care – [Chapter 4](#).

## **Other chapters**

[Chapter 5](#) provides information for schools offering or seeking to offer education to international students.

[Chapter 6](#) summarises the application processes for initial registration, registration change and renewal of registration. It includes the relationship between an advance determination and an application for initial registration or significant registration change.

Finally, [Chapter 7](#) summarises obligations imposed by the Act on governing bodies other than compliance with the registration standards and other requirements.

## Frequently used terms

### ***Compulsory education period***

A student's compulsory education period is from the beginning of the year in which the student reaches the age of 5 years and 6 months until either the end of the year in which he or she reaches the age of 17 years and 6 months or the day on which he or she reaches the age of 18 years, whichever happens first (School Education Act, s.6). In most schools, this period corresponds to Pre-Primary to Year 12.

### ***Early education period***

A child's early education period begins at birth and ends when the child enters his or her pre-compulsory education period.

### ***Final year of their early education period***

The final year of a child's early education period is from the beginning of the year in which the child reaches the age of 3 years and 6 months until the end of that year. During this period the child may or may not be enrolled in a school (School Education Act, s.4). In most schools, this period corresponds to Pre-Kindergarten.

### ***Pre-compulsory education period***

A child's pre-compulsory education period is from the beginning of the year in which he or she reaches the age of 4 years and 6 months until the end of that year (School Education Act, s.5). During this period, a child may or may not be enrolled in a school. In most schools, this period corresponds to Kindergarten.

### ***Teacher***

A person registered, or required to be registered, under the *Teacher Registration Act 2012*.

## Acronyms and abbreviations

<b>ACECQA</b>	Australian Children's Education and Care Quality Authority
<b>AISWA</b>	Association of Independent Schools of Western Australia
<b>CARE school</b>	Curriculum and Re-engagement in Education school
<b>CEWA</b>	Catholic Education Western Australia
<b>CPFS</b>	Child Protection and Family Support division, WA Department of Communities
<b>Cth</b>	Commonwealth (used in reference to federal legislation)
<b>DFES</b>	Department of Fire and Emergency Services
<b>MRS</b>	Mandatory Reporting Service operated by CPFS
<b>SCSA</b>	School Curriculum and Standards Authority
<b>WACE</b>	Western Australian Certificate of Education
<b>WWCC</b>	Working with Children Check/Card (technically called an 'assessment notice')
<b>WWC Screening Unit</b>	Office within CPFS responsible for processing WWCC applications

# 1. SCHOOL GOVERNANCE

## Overview

The School Education Act requires the Director General to be satisfied that a school is or will be well governed. The governance requirements are:

- that the governing body named on the registration certificate has ownership, management or control of the school;
- that the association's or company's constitution is satisfactory;
- that the members are people of good character who between them have qualifications, skills and experience relevant to operating a school and who are able to manage conflicts of interest effectively;
- that there is a separation between the governing body's overall governance role and the Principal's day-to-day management and control responsibilities; and
- that the governing body is ultimately accountable for specific matters including the quality of the educational programmes, the school's strategic direction, compliance with applicable laws and its own duty of care for the students.

## Ownership, management or control of the school

Section 160(1)(a) requires the governing body to have ownership, management or control of the school. Ownership alone, however, may not be sufficient because it may not enable the owner to be ultimately accountable for the school's operations. Accountability is more likely to be associated with management and control. Each case is assessed in its own context and on the evidence which can be provided to satisfy the Director General.

## A constitution that is satisfactory for the purposes of the Act

Section 160(1)(b) requires the governing body's constitution to be satisfactory for the purposes of the Act.

Recognition of the constitution under the *Associations Incorporation Act 2015 (WA)*, *Corporations Act 2001* (Cth) or other legislation is for incorporation purposes only and does not necessarily mean that the constitution satisfies the requirements for registration as a school.

The question for the Director General is whether the constitution is "satisfactory to achieve the objectives and purposes of the School Education Act". These purposes as they apply to non-government schools are:

- to acknowledge the importance of the involvement and participation of a child's parents in their child's education;
- to ensure that a certain minimum standard is maintained for students who attend non-government schools; and
- [to require] governing bodies to account for the quality of the educational programmes which they provide.

**The Director General will consider** whether the constitution:

- enables the provision of a satisfactory standard of education;
- does not prevent parent involvement and participation in their child's education; and
- reflects a commitment to observing the registration standards and meeting the other requirements for non-government schools.

## Fit and proper members

Section 160(1)(c) requires the governing body's members to be fit and proper persons to operate a school.

In assessing fitness and propriety, **the Director General will take into account:**

- the prior conduct of the member in Western Australia or elsewhere;
- the prior conduct of any person related, as defined, to the member in Western Australia or elsewhere; and
- any other matter the Director General considers relevant.

Section 160(5) defines related persons for the purpose of this requirement. Family members are not included unless they are also related in one of the other ways listed. A governing body member is 'related' to another person if they are:

- employer and employee;
- business partners;
- body corporate and a director or board member;
- body corporate and a person involved in its control or management;
- body corporate and a person with a legal or equitable interest in 5% or more of its share capital; or
- joint trustees, joint beneficiaries or trustee and beneficiary of a trust.

The governing body member may be either party in each relationship but the Director General is likely to have a greater concern about the relationship if the governing body member is in some way subservient to or dependent upon the other person (e.g. as an employee or beneficiary of a trust). Note that persons are also related in the relevant way if a chain of relationships can be traced through one or more of the above-listed relationships.

In assessing fitness and propriety, **the Director General will also consider** the skills, experience and qualifications the members bring to their governing body roles. As they must be fit and proper persons to operate a school, it is expected that the governing body will include people not only with business-related skills but also with experience, skills or qualifications in an education field. Specific knowledge related to school governance may, alternatively or in addition, be acquired by undertaking professional development and participating in appropriate training. A particular focus of the skills and training expected is on the itemised matters for which the governing body itself is held ultimately accountable.

Being able to recognise that one has a conflict of interest, disclosing that appropriately to the other members of the governing body and managing the conflict so that it does not taint the governing body's independence in decision-making are also central to fitness and propriety. **The Director General will take into account** the governing body's knowledge about conflicts of interest, its arrangements for requiring disclosure of any conflicts which may arise and its compliance with applicable statutory rules governing how conflicts are to be managed. These rules are to be found in the legislation under which the governing body is incorporated.

## Separation of governance and day-to-day management

Section 160(1)(e) requires the day-to-day management and control of the school to be the responsibility of the Principal and clearly separated from the overall governance role of the governing body.

This requirement is in line with contemporary best practice organisational design. It aims to ensure that the governing body focuses on monitoring the school's performance and conformity with applicable laws and standards and on establishing the policy and procedural framework within which the Principal and staff will operate.

However, the way in which each school distributes the respective functions of governance and management is largely in the school's discretion, provided there is a clear separation and subject to the governing body retaining ultimate accountability.

## Accountability

Section 160(1)(f) of the School Education Act sets out four of the matters for which the governing body must be ultimately accountable:

1. development and implementation of an effective strategic direction for the school;
2. development and implementation of effective processes to plan for, monitor and achieve improvements in student learning;
3. effective management of the school's financial resources in accordance, where relevant, with any purposes for which they were provided; and
4. compliance with all written and other laws that apply to and in respect of the school and the operation of the school.

In addition, as noted above, one purpose of the Act itself is to hold governing bodies accountable for the quality of their schools' educational programmes.

The Director General must be satisfied that the governing body, in whose name the school is registered, is accountable in fact. It must not be subject to the directional control of another body in respect of these matters.

The governing body cannot delegate ultimate responsibility for these matters to any other person or body including the Principal or a school advisory council, although these others may have a role in performing related tasks as directed by the governing body.

Accountability does not require that the governing body itself perform all of the roles associated with achieving the required outcomes. It must, however, take ultimate responsibility and establish to the Director General's satisfaction that it has the necessary authority, information, understanding and capacity to do so.

The more challenging accountabilities are those relating to the school's strategic direction and, more particularly, school improvement. These accountabilities not only require the development and implementation of, respectively, a strategic direction for the school and processes to plan for, monitor and achieve improvements in student learning. They also require that the governing body evaluates their effectiveness and directs changes to improve their effectiveness.

The capacity of a governing body to be accountable will be influenced not only by its track record but also by the qualifications, skills, expertise and experience of its members.

**The Director General will evaluate** the evidence provided with a view to considering not only whether the governing body is committed to being accountable but also whether it is accountable in fact. The Director General may be or become dissatisfied as to the governing body's commitment to being accountable if, for example:

- it has not reviewed the school's strategic direction during a calendar year;
- it has not reviewed the school's processes for monitoring and achieving improvements in student learning during a school year;
- it does not receive and discuss regular reports on student achievement from the Principal or other senior staff;
- it does not review and monitor the school's financial performance with the tabling of monthly management reports at regular governing body meetings
- the school has not complied with the conditions prescribed by the Commonwealth or State Government for the use of and accounting for per capita grants or capital funding;
- the school has been found by the responsible authority to have breached an applicable statute or regulation; or
- the school has been found to have unlawfully discriminated against a student or prospective student.



## Note

The Director General will not investigate alleged breaches of applicable laws other than the School Education Act itself. However, a governing body found by the responsible authority to have breached an applicable law will be expected to take appropriate steps to avoid future breaches. Failure to do so may lead the Director General to conclude that the governing body is not accountable for compliance with all applicable laws.

## Evidence related to governance

The following may be requested before, during or following the school visit:

- Certificate registering the legal entity (e.g. Certificate of Incorporation and/or Certificate of Registration of Business Name).
- Where ownership, management and control are shared between two or more entities, evidence that the entity nominated as the governing body has the authority and security of tenure to operate the school and be accountable as required.
- Constitution of the company or association which owns, manages and/or controls the school.
- Supporting documentation that describes the operation of the governing body e.g. committee structure and relationship between the governing body and the Principal (where not evident from the constitution itself), delegations, and governing body policies and procedures such as those relating to conflicts of interest.
- Register of governing body members recording the role of each and his or her qualifications for that role. All members must be recorded on the register, including *ex officio* and other non-voting members.
- A correctly completed and witnessed statutory declaration from the governing body chair (1) relevant to his or her own fitness and propriety and (2) confirming his or her assessment as to the fitness and propriety of each board or management committee member.
- Any instruments executed by the governing body delegating powers and functions, including financial powers, to a sub-committee, Principal, business manager and/or bursar and the curriculum vitae of each person with a delegation.
- Principal's job description.
- The school's strategic plan endorsed by the governing body.
- The school's improvement plan endorsed by the governing body.
- The annual schedule of financial reports provided to the governing body.
- Declaration of legal compliance.
- Evidence of training opportunities offered to and undertaken by members which target gaps in members' knowledge and expertise as well as providing regular updates covering accountable and ethical decision making, complaint handling, duty of care and protective behaviours with particular attention paid to the context of school boarding facilities where applicable.
- Governing body meeting agendas and minutes together with reports received and considered (typically only for the previous 12 months).

## Definitions

### ***Duty of care***

A school authority has a duty to ensure that reasonable care is taken of its students while they are on the school premises during the hours when the school is open and during school-related off-site activities. This duty is separate from the duty of care owed by each teacher. The duty cannot be discharged simply by appointing competent teaching staff and leaving it to them to take appropriate steps for the care of the students. It is a duty to ensure that reasonable steps are taken for the safety of the students. Neither the duty nor its performance can be delegated. [*Commonwealth v Introvigne* (1982) 150 Commonwealth Law Reports 258.]

**Conflicts of interest**

Conflicts of interest occur when a member's self-interest is in conflict with the duty owed by all members to the governing body itself.

They also occur when a governing body member owes duties to two people or entities whose interests are in competition or conflict with each other, or are reasonably perceived to be in competition or conflict.

The interest may be direct or indirect, financial or non-financial. The competing relationship may be another directorship, an employment relationship, a close family or other personal relationship among others. The key question is whether the conflict *could* affect the member's ability to properly discharge the duty owed to the governing body, even if it doesn't affect it in fact.

Conflicts of interest, and the failure or inability of the member or the governing body as a whole to manage them appropriately, are relevant to the Director General's consideration of the fitness and propriety of governing body members.

## ► 2. REGISTRATION STANDARDS

### Overview

The Minister has determined 15 registration standards in accordance with s.159(1) of the School Education Act and reg.131A of the *School Education Regulations 2000*<sup>3</sup>. These standards are set out in the following pages with explanations and considerations and are compiled together in the Appendix. They come into force on 1 January 2020.

The Director General, when considering an application for registration, registration change or renewal of registration, must be satisfied that the school will observe these registration standards.

This chapter sets out:

- each standard in turn;
- relevant definitions; and
- the Director General's considerations in exercising a judgement or granting a waiver where relevant.

<b>1.</b>	Curriculum	<a href="#">Page 10</a>
<b>2.</b>	Staff to student ratios	<a href="#">Page 12</a>
<b>3.</b>	Days and hours of instruction	<a href="#">Page 14</a>
<b>4.</b>	Staff	<a href="#">Page 16</a>
<b>5.</b>	Premises and facilities	<a href="#">Page 19</a>
<b>6.</b>	Enrolment and attendance procedures	<a href="#">Page 22</a>
<b>7.</b>	Critical and emergency incidents	<a href="#">Page 26</a>
<b>8.</b>	Boarding	<a href="#">Page 29</a>
<b>9.</b>	Complaints	<a href="#">Page 31</a>
<b>10.</b>	Child abuse prevention	<a href="#">Page 34</a>
<b>11.</b>	Financial resources	<a href="#">Page 39</a>
<b>12.</b>	Management of students' behaviour	<a href="#">Page 40</a>
<b>13.</b>	Minimum age of enrolment	<a href="#">Page 42</a>
<b>14.</b>	Delivery of the curriculum	<a href="#">Page 43</a>
<b>15.</b>	Numbers of children enrolled	<a href="#">Page 46</a>

3 [www.legislation.wa.gov.au/legislation/statutes.nsf/law\\_s2087.html](http://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s2087.html)

# STANDARD 1

## CURRICULUM

- 1.1** Curriculum for students in the final year of their early education period, known as Pre-Kindergarten, and in their pre-compulsory education period, known as Kindergarten, is consistent with the principles, practices and learning outcomes of *Belonging, Being and Becoming – The Early Years Learning Framework*.
- 1.2** Curriculum for students in the first to eleventh years of their compulsory education period, known as Pre-Primary to Year 10 inclusive, is:
- (a) approved, accredited or recognised by the School Curriculum and Standards Authority; and/or
  - (b) a programme of study meeting the needs of each student delivered through an Individual Education Plan.
- 1.3** Curriculum for students in the final two years of their compulsory education period or above as permitted by law, known as Years 11 and 12:
- (a) enables all students to achieve a Western Australian Certificate of Education (WACE), Cambridge International A Levels, International Baccalaureate Diploma or another qualification approved by the Director General; and/or
  - (b) provides a programme of study meeting the needs of each student delivered through an Individual Education Plan.

### Definition

#### **Individual Education Plan**

An Individual Education Plan sets out a student's individual learning goals, support needs and services to be provided which:

- (a) is developed in consultation with the student and his or her parents/guardians;
- (b) contains sufficient information, milestones and detail to guide all staff working with the student;
- (c) may have an explicit focus on literacy and numeracy skills; social skills; emotional and behavioural regulation skills; health and wellbeing skills and/or physical skills;
- (d) records regular assessment and evaluation of student progress and achievement of identified outcomes and targets;
- (e) stipulates a commencement date, monitoring dates and review dates; and
- (f) is reviewed and revised at least twice each school year.

In some cases a student requires the support, additionally or in the alternative, of an Individual Education Plan. Delivering a programme of study in this way will be acceptable, provided the school can demonstrate that the Plan is designed to meet and does meet the student's individual needs.

## Director General's considerations

### Curriculum plan

Schools delivering the Western Australian Curriculum are required to have a curriculum plan for Pre-Primary to Year 10 which is in accordance with the SCSA published requirements and timelines for the implementation of the *Western Australian Curriculum and Assessment Outline* for the relevant stages of schooling (e.g. early childhood, middle primary, upper primary, lower secondary).

Planning for teaching and learning at the classroom level in all schools should be consistent with the school's curriculum plan.

### Assessment and reporting – Pre-Primary to Year 10

The assessment and reporting policy for Pre-Primary to Year 10 must be in accordance with the reporting policy requirements and guidelines of the *Western Australian Curriculum and Assessment Outline*. A school should be able to demonstrate that student achievement is recorded and communicated within the school as a basis for ongoing curriculum planning and teaching.

A school using an alternative curriculum approved by SCSA may use an alternative method of assessing and reporting student achievement providing it aligns with the *Western Australian Curriculum and Assessment Outline* and has SCSA's approval for use by that school.

### Assessment and reporting – WACE

The assessment and reporting policy for Year 11 and 12 students undertaking a WACE pathway must be compliant with the requirements specified in SCSA's *WACE Manual and School Activities Schedule*.

### Alternative senior years qualifications

Schools offering an alternative pathway for Year 11 and 12 students may be required to demonstrate, for each student affected, that the curriculum provided is accredited and/or recognised as equipping the student to access higher education, further training and/or employment. In the case of a qualification said to give access to higher education, there must be evidence of recognition by the institution the pathway leads to. If the school can demonstrate appropriate accreditation or recognition, **the Director General may approve** the alternative.

## STANDARD 2

# STAFF TO STUDENT RATIOS

- 2.1** In classes for students in their compulsory education period, staff to student ratios are sufficient to provide a satisfactory standard of education and care to each of the students enrolled or to be enrolled.
- 2.2** In classes for or including students in the final year of their early education period and/or in their pre-compulsory education period, unless the Director General has provided prior approval and subject to standard 4.2(a):
- (a) the staff to student ratio is one staff member, working directly with the students, to a maximum of 10 students. Staff may take breaks of up to 30 minutes per day 'off the floor'. Throughout the break the staff must remain on the school premises and be immediately available to assist if required. In planning staff breaks, adequate supervision must be maintained at all times and the overarching consideration must be the needs of the students;
  - (b) at least one early childhood teacher is in attendance for every 30 students or fewer at all times that students are present.

### Note

Standard 2.2(b) requiring an early childhood teacher to be in attendance at all times is to be read in combination with standard 2.2(a) enabling staff, including the teacher, to take breaks while remaining on the school premises.

### Definitions

#### ***Early childhood teacher***

An early childhood teacher either holds an early childhood teaching qualification or has, in the opinion of the Principal, sufficient experience as an early childhood teacher.

#### ***Early childhood teaching qualification***

The qualification must be both —

- (a) accepted as an early childhood teaching qualification by the Australian Children's Education and Care Quality Authority (ACECQA), either as listed on its website<sup>4</sup> or on the basis of an individual assessment; and
- (b) accepted by the Teacher Registration Board of Western Australia (TRBWA) for registration in any category in Western Australia.

#### ***Working directly with students***

For the purpose of standard 2.2, a person is working directly with the students in Pre-Kindergarten and/or Kindergarten when he or she is:

- (a) physically present with the students; and
- (b) directly engaged in providing education and care to them.

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<sup>4</sup> [www.acecqa.gov.au](http://www.acecqa.gov.au)

## Director General's considerations

### Staff sufficiency

The sufficiency of the staff to student ratio in any particular class, other than Pre-Kindergarten and Kindergarten, will depend on factors such as the following:

- needs of the students for both quality education and quality care;
- participation of students with learning support needs;
- the age and maturity of the students;
- learning areas or courses being or to be taught;
- curriculum being or to be delivered;
- mode of delivery including online;
- qualifications and proficiency of the staff and/or external providers;
- involvement of education assistants;
- capacity and quality of the teaching area, furniture and equipment; and/or
- risks associated with the activity and/or environment.

For students studying primarily in face-to-face mode, the following class size maximums are provided as guidelines:

Year levels	Students per teacher
Pre-Primary (with a teacher and an education assistant)	25-27
Years 1-3	24
Combined Years 3 and 4	23
Years 4-6	32
Mixed classes Years 4-6	31
Years 7-10	32
Years 11-12	25
Practical	16-22

A practical class is one in which issues of safety and workspace are critical to meeting duty of care and is determined by the Principal.

### Pre-Kindergarten and Kindergarten ratios waiver

In Pre-Kindergarten and Kindergarten, the 1:10 ratio must be maintained, with the staff including at least one early childhood teacher for 30 students or fewer, unless the Director General approves otherwise.

**The Director General may waive** the above ratio in appropriate circumstances, such as where:

- the school has been unable to engage the services of appropriate staff due to remoteness despite genuine efforts to do so;
- staff leave or transfer has temporarily caused a reduction in staff numbers; or
- a small number of students apply for enrolment part-way through a school year.

Schools should notify the Director General promptly about any difficulty in observing standard 2.2, explaining the steps taken to observe it and other relevant circumstances, in order to obtain the Director General's approval to waive the minimum requirements. Approval must be obtained before the proposed change is implemented unless the school had no notice of the need for it.

## STANDARD 3

# DAYS AND HOURS OF INSTRUCTION

- 3.1** Unless the Director General has provided prior approval and subject to standard 3.2, the school provides, for each year level from Kindergarten to and including Year 10, time for instruction which totals at least that prescribed for government schools.
- 3.2** For students in the first year of their compulsory education period, known as Pre-Primary, who are in receipt of an alternative curriculum, the hours of instruction are as directed by the Principal, but must be at least 15 hours per week.
- 3.3** For students in the final year of their early education period, known as Pre-Kindergarten, the hours of instruction in each school week do not exceed 25 hours and 50 minutes.
- 3.4** For students in the final two years of their compulsory education period, known as Years 11 and 12, the hours of instruction are as required by the School Curriculum and Standards Authority or other qualification awarding authority.

### Notes

Standard 3.3 does not prevent a school providing Pre-Kindergarten for fewer hours per week. For example, Pre-Kindergarten and Kindergarten may both be provided at the minimum 11 (statutory) or 15 (with federal funding for the additional four) hours per week.

For the purpose of standard 3.4, the only qualification awarding authorities which are relevant are those which govern the awarding of a senior years qualification as authorised or approved under standard 1.3(a).

### Definitions

#### ***Alternative curriculum***

A curriculum, other than the Western Australian Curriculum, which is recognised by the School Curriculum and Standards Authority for delivery and assessment in a named school.

#### ***Required by SCSA***

For the purpose of standard 3.4, the hours of instruction required by SCSA are as set out in the *WACE Manual 2019*. As a notional guide, one unit of a WACE course has an average learning time of 55 hours. The WACE requirement is 20 units, generally undertaken over two years [*WACE Manual 2019*, page 78]. “A unit is a component of content that can be feasibly taught in about half a ‘school year’ (approximately 50-60 hours duration including assessment and examinations) of senior secondary studies” [*WACE Manual 2019*, page 121].



### ***Time for instruction***

For the purpose of standard 3.1, time for instruction is calculated by multiplying the following minimum weekly hours by the total number of days on which government schools are required to open for students in the course of the year:

- (a) for Kindergarten students, at least 11 hours; and
- (b) for students from Pre-Primary to and including Year 10, at least 25 hours and 50 minutes.

Government schools must be open for instruction on 192 days in each of the 2020 and 2021 school years. Non-government schools, therefore, must provide a minimum of 422 hours of instruction for Kindergarten students and 992 hours for Pre-Primary to Year 10 in each of these school years.

A school may not include the following when calculating the total time for instruction in a year:

- school holidays;
- public holidays falling within term time;
- structured educational programmes conducted outside a school's published hours of instruction unless these are part of the curriculum and compulsory for all students or all those enrolled in the particular course;
- week days lost through school closure for 'boarders weekends'; and
- school development days on which students do not attend.

### **Director General's considerations**

#### **Time for instruction waiver**

**The Director General may waive** the minimum time for instruction in standard 3.1 in appropriate circumstances such as the following:

- when the learning and engagement needs of the students favour shorter hours – e.g. CARE schools;
- to enable a school community to attend to its cultural responsibilities;
- when the school has been affected by a catastrophic weather event;
- shorter hours or days meet the needs of the students;
- shorter hours or days benefit the good management of the school and are in students' best interests.

Schools should notify the Director General promptly about any difficulty in observing standard 3.1, explaining the steps taken to observe it and other relevant circumstances, in order to obtain her approval to waive the minimum requirements. Approval must be obtained before the proposed change is implemented unless the school had no notice of the need for it.

## STANDARD 4

### STAFF

- 4.1** The school complies with the requirements of:
- (a) the *Teacher Registration Act 2012* and *Teacher Registration (General) Regulations 2012*; and
  - (b) the *Working with Children (Criminal Record Checking) Act 2004* and *Working with Children (Criminal Record Checking) Regulations 2005*.
- 4.2** In each class for or including students in the final year of their early education period and/or in their pre-compulsory education period, unless the Director General has provided prior approval:
- (a) each teacher is an early childhood teacher. In the event of the absence of an early childhood teacher:
    - (i) if the absence totals no more than 60 days in a school year or is due to the teacher's resignation, his or her place may be filled by a primary-qualified teacher for the remainder of the school year;
    - (ii) in all other cases, the teacher's place must be filled by an early childhood teacher;
  - (b) at least 50% of the staff required to meet the staff to student ratio hold, or are actively working towards, at least an approved Diploma level education and care qualification (the teacher or teachers can be included in this 50%) and all other staff required to meet the ratio hold, or are actively working towards, at least an approved Certificate III level education and care qualification; and
  - (c) there are staff on the school premises, at all times these students are present, with the following:
    - (i) a current approved first aid qualification;
    - (ii) current approved anaphylaxis management training; and
    - (iii) current approved emergency asthma management training.
- 4.3** In each class for or including students in the final year of their early education period and/or in their pre-compulsory education period a contemporaneous record is kept of:
- (a) the early childhood teacher or substitute teacher who was actually present at any time; and
  - (b) each other person or people working directly with the students at any time.
- 4.4** The school provides all new staff, including new boarding staff if applicable, as soon as practicable following their appointment, an induction covering at least:
- (a) the Code of Conduct, including staff obligations to report objectively observable behaviour which is not permitted by the Code;
  - (b) the school's policies, procedures and practices that aim to ensure students' safety and wellbeing at school and during school-related activities; and
  - (c) the law with respect to mandatory reporting of child sexual abuse.
- 4.5** The school ensures all staff participate in regular performance management procedures and professional learning linked, where appropriate, to the Professional Standards for Teachers in Western Australia and to the school's processes for improving student learning.

## Note

The requirement in standard 4.2(c) that first aid staff be ‘on the premises’ does not require them to be members of the Pre-Kindergarten and/or Kindergarten staff. However, they must be readily contactable by the Pre-Kindergarten and/or Kindergarten staff, able to reach an emergency promptly and available at all times Pre-Kindergarten and Kindergarten students are present. Staff with these qualifications are not required to be educators themselves.

## Definitions

### ***Actively working towards***

A staff member is actively working towards a qualification if he or she is:

- currently enrolled;
- making satisfactory progress; and
- meeting the requirements for maintaining enrolment.

In addition, actively working towards a Diploma requires that the staff member must –

- already hold an approved Certificate III;
- have completed the requisite number of units in the Diploma course for award of a Certificate III; or
- have completed at least 30% of an early childhood teaching qualification.

### ***Approved qualification***

Approved early childhood Diploma and Certificate III qualifications as well as approved first aid, anaphylaxis management and emergency asthma management training are listed on the Australian Children’s Education and Care Quality Authority (ACECQA) [website](#)<sup>5</sup>.

### ***Contemporaneous record***

The record referred to in standard 4.3 is to be kept by the person with knowledge and responsibility for the early childhood staff on any particular day and must be completed on that day. This may be the early childhood teacher or the early childhood coordinator.

A roster of planned staff responsibilities will not suffice. Rather a record must be kept of all staff working directly with the students in each session and of the teacher with responsibility at the time.

The purposes of this record include enabling the Director General to check that the staff to student ratio was maintained and that the teacher was in attendance and working directly with the students as required (see standard 2.2). It may also be a source of evidence in the event of a critical incident or complaint, even a historical complaint (i.e. one made many years after the event). Therefore it must be meticulously maintained and fit for purpose.

For each room or class, the time(s) in and time(s) out for each staff member working directly with the students must be precisely recorded against that person’s name and position title. It is not necessary for the staff member to sign in, although the school may prefer this.

It is not necessary for the record to accompany the students if they move between areas of the school such as to the library or music room. However, the person responsible for maintaining the record must record to whom responsibility for the students is handed over, such as the Librarian, and at what time.

Schools should note that, during these ‘specialist sessions’ the staff to student ratio must be maintained but that, as the sessions will be brief, it is not necessary for the early childhood teacher to accompany the students provided an appropriately trained teacher will be responsible.

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<sup>5</sup> [www.acecqa.gov.au](http://www.acecqa.gov.au)

### **Early childhood teacher**

An early childhood teacher either holds an early childhood teaching qualification or has, in the opinion of the Principal, sufficient experience as an early childhood teacher.

### **Early childhood teaching qualification**

The qualification must be both —

- (a) accepted as an early childhood teaching qualification by the Australian Children's Education and Care Quality Authority (ACECQA), either as listed on its [website](#)<sup>6</sup> or on the basis of an individual assessment; and
- (b) accepted by the Teacher Registration Board of Western Australia (TRBWA) for registration in any category in Western Australia.

### **Working directly with students**

For the purpose of standard 4.3, a person is working directly with the students in Pre-Kindergarten and/or Kindergarten when he or she is:

- (a) physically present with the students; and
- (b) directly engaged in providing education and care to them.

## **Director General's considerations**

### **Induction**

A school's staff induction policies and procedures must stipulate that all new staff will receive an induction which is effective in maintaining both continuity of the learning environment and duty of care for students. A satisfactory staff induction includes all aspects of standard 4.4.

In particular, the induction in the requirements of the Staff Code of Conduct must at least include:

- provision of copies or ready access to copies of the Code;
- oral explanation by a senior member of staff;
- inviting and responding to questions from the new staff member; and
- a record of the induction and date/s provided signed by both inductor and inductee.

### **Performance management and professional learning**

There must be clear links between performance management, staff professional development and student learning.

### **Qualifications waiver**

**The Director General may waive** the qualification requirements in standard 4.2 in appropriate circumstances such as where:

- the school has been unable to engage the services of appropriate staff due to remoteness despite genuine efforts to do so;
- staff leave or transfer has temporarily caused a reduction in staff numbers;
- a small number of students apply for enrolment part-way through a school year.

Schools should notify the Director General promptly about any difficulty in observing standard 4.2, explaining the steps taken to observe it and other relevant circumstances, in order to obtain her approval to waive the applicable requirements. Approval must be obtained before the proposed change is implemented unless the school had no notice of the need for it.

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6 [www.acecqa.gov.au](http://www.acecqa.gov.au)

## STANDARD 5

# PREMISES AND FACILITIES

- 5.1** The premises and facilities used by the school are fit for purpose, hygienic, safe, well-maintained, sufficient and appropriate for the provision of a satisfactory standard of education and satisfactory levels of care to all students and for the number of students enrolled.
- 5.2** Unless the Director General has provided prior approval, premises built or commissioned since August 2012 for the delivery of educational programmes to students in the final year of their early education period and/or their pre-compulsory education period provide 3.25 square metres of unencumbered indoor space for each student and at least 7 square metres of unencumbered outdoor space for each student.
- 5.3** Where applicable, the premises used by boarding students are appropriate, safe, well-maintained and sufficient for the number accommodated.
- 5.4** The premises, including boarding premises where applicable, are so arranged, and their use so organised, as to effectively deter inappropriate interactions between students and staff, and between students, and to facilitate the detection of any such interactions which may occur.
- 5.5** The school provides such ancillary support as is necessary to ensure equity of access to educational programmes for all students enrolled.

### Definitions

#### ***Ancillary support***

Support which ensures equity of access to educational programmes for all enrolled students. The nature of this support will be determined by the needs of individual students. It may include, for example:

- extension programs for Gifted and Talented students;
- assistive technologies;
- counselling.

#### ***Facilities***

The physical equipment and fixtures provided at the school, including play areas, furniture and vehicles.

#### ***Fit for purpose***

Suitable for the purpose and people for which it was designed, constructed and intended to be used.

#### ***Premises***

The land and buildings of the school or proposed school, including boarding premises where applicable as well as off-campus sites owned or under the control of the school.

#### ***Unencumbered space***

Unencumbered space refers to the space suitable for use by Pre-Kindergarten and/or Kindergarten students and in fact available for their use.

The following *cannot* be counted as unencumbered indoor spaces:

- any passageway or thoroughfare (including door swings);
- any toilet and hygiene facilities;
- any area permanently set aside for storage;
- any area or room for staff or administration;
- the kitchen unless it is primarily for use by students as part of the educational programme;
- any other space that is not suitable for Pre-Kindergarten and Kindergarten students.

The following *cannot* be counted as unencumbered outdoor spaces:

- any pathway or thoroughfare, except where used by students as part of the education and care programme;
- any car parking area;
- any storage shed or other storage area;
- any other space that is not suitable for Pre-Kindergarten and Kindergarten students.

A verandah can be included either as indoor space or outdoor space but not both.

## **Director General's considerations**

### **Safe premises**

Safety considerations include:

- management of student drop-off and pick-up areas;
- cleanliness and hygiene;
- lighting, air flow, emergency lights, egress, electrical load, student capacity, exit signage, fire safety, door and corridor widths, toilet facilities;
- adequate and appropriately organised teaching and learning spaces;
- adequate and appropriately organised rest and play spaces.

### **Safe facilities**

Safety considerations include both physical arrangements and enforced policies about their use such as:

- the safe installation and use of playground and sporting equipment consistent with the manufacturer's specifications;
- standards of supervision of students using sporting and recreational facilities;
- ergonomic qualities of information and communication technologies;
- furniture and equipment is of an appropriate size for the students using it;
- guidelines and education for students, staff and parents about cyber-safety and online security;
- hazard identification and reduction measures in design and technology classrooms and other workshops.

### **Sufficient facilities**

Sufficiency considerations include:

- whether the resources are sufficient in number, quality and kind to support the delivery of all learning areas;
- whether resources, equipment and furniture are provided to support the learning and full engagement in school activities of all students including students with disabilities, students at educational risk and gifted and talented students;
- whether the resources are up-to-date.

### **Appropriate premises**

The appropriateness or suitability of the premises will be considered in light of factors such as:

- the obligation to provide both quality education and quality care;
- participation of students with learning support needs;
- accessibility for students, staff and parents with disabilities;
- the age and maturity of students;
- learning areas or courses being or to be taught;
- curriculum being or to be delivered;
- risks associated with the activity and/or environment.

### **Appropriate boarding premises**

In assessing the appropriateness of boarding premises, **the Director General will consider** such factors as whether it is:

- adequately heated and cooled;
- in compliance with fire and safety regulations and equipped for emergencies;
- free of significant hazards and safe for all boarders;
- hygienic;
- secure from intrusion and sufficiently private;
- well lit, well ventilated and well-maintained;
- accessible to all boarders; and
- sufficiently spacious for study, sleep, meals and recreation.

### **Risk management audits**

Schools are expected to undertake regular risk management audits in respect of premises and facilities. Risk management audits which comply with reg.3.1 of the *Occupational Safety and Health Regulations 1996* must be student-focused and also incorporate consideration of staff, parent, volunteer and other visitor safety, health and wellbeing. Note that reg.3.1 requires the implementation of a risk management process involving the following three steps:

- identify hazards;
- assess risks of injury or harm arising from each identified hazard;
- address risks through implementation of control measures to eliminate or reduce them.

Hazard reduction measures identified in risk management audits must be appropriately implemented.

Off-site premises owned or leased by the school are subject to the same requirements and provision of evidence. This requirement does not extend to premises hired on a short-term basis although the Director General has a reasonable expectation that due diligence will be exercised in organising the hire in the interests of student health, wellbeing and safety.

### **Minimum space requirements waiver – Standard 5.2**

**The Director General may approve** reduced indoor or outdoor space for a reason such as the following:

- a serious and unexpected short term care emergency arises requiring an additional student or students to be granted immediate enrolment;
- a temporary reduction in space available (e.g. due to renovation of a play space) when no suitable alternative spaces are available;
- the school is in a rural or remote area and no alternative programme is available for the additional student or students;
- a small number of students apply for enrolment part-way through a school year.

### **Ancillary support – Standard 5.5**

In determining whether a school provides necessary ancillary support for students who need it, **the Director General will consider** whether the school has an adequate understanding of each student's needs before and during enrolment in order to provide what each student needs to ensure equity of access to the school's educational programmes.

The school's student recruitment policy must ensure that relevant information is obtained about each student on enrolment or soon afterward, recorded, communicated to staff for the purposes of curriculum planning and student assessment, and reflected in teaching and learning programmes as well as in ancillary support provided.

# STANDARD 6

## ENROLMENT AND ATTENDANCE PROCEDURES

- 6.1** Student enrolment and attendance procedures and practices comply with all legal requirements.
- 6.2** A CARE school documents and retains on record the basis for each decision that a student enrolled was or is at educational risk.

### Note

A school's legal obligations regarding enrolment, attendance and freedom from unlawful discrimination apply equally to students participating in online-only learning as to those attending in person.

### Definitions

#### **CARE school**

A Curriculum and Re-engagement in Education (CARE) school is one established and registered solely for the education of students at educational risk.

#### **Educational risk**

A student is at educational risk if he or she is of compulsory school age but unable, for one or more reasons such as the following, to participate in mainstream schooling:

- is disengaged from school or vocational education and training as evidenced by persistent non-attendance or a failure or refusal to enrol;
- experiences learning disadvantages or difficulties which cannot be effectively catered for at a reasonably local mainstream school;
- is affected by life risk factors such as domestic violence, abuse, homelessness, transience, addiction, chronic ill-health or pregnancy;
- is subject to a Children's Court order;
- is the subject of a Responsible Parenting Agreement covering school attendance; or
- is a persistent or serious juvenile offender.

#### **Enrolment**

A student is enrolled when enrolment is complete in accordance with the school's or system's policies and procedures. Generally an expression of interest, even payment of a deposit, is not enrolment. Further, it is normal and accepted practice that schools will commence their enrolment process before the day on which the student commences school. [Section 16 of the School Education Act and reg.5 of the School Education Regulations list what information schools are able to require from parents/guardians with an enrolment application.]



### **Legal requirements – enrolment register**

A Principal must ensure that an enrolment register is kept showing, for each enrollee:

- their name;
- date of birth;
- date of enrolment;
- eventually, date on which enrolment ceases;
- immunisation status (see further below); and
- Medicare number [School Education Act, s.19 and School Education Regulations, reg.6(1)].

The enrolment register may be kept in electronic form but must be capable of being reproduced in written form [reg.6(2)].

### **Legal requirements – immunisation**

Two requirements were introduced in 2019. The first requires schools to record the immunisation status of every new enrollee; the second prevents schools enrolling any student into Pre-Kindergarten or Kindergarten unless the student's immunisation status is up-to-date or the student is exempt.

**Immunisation status:** This is the status of having been immunised against (or having acquired immunity by infection from) all or specified vaccine preventable notifiable infectious diseases, or not. Each student's immunisation status is as recorded on his or her current immunisation history statement.

**From 1 January 2019**, an immunisation history statement must be provided to the school by each new student's parent/guardian. The statement must be current – that is, no older than two months before being sighted by the school. The statement can be obtained from the [Australian Immunisation Register](#)<sup>7</sup>. The Register staff will require the student's consent to release the statement if the student is over 14.

The enrolment register must record that the new student's immunisation status is either 'up-to-date' or 'not up-to-date'. If a statement is not provided, the immunisation status must be recorded as 'not up-to-date' [School Education Act, s.16(3)].

The requirement to record immunisation status does not apply to students who were already enrolled at the school on 1 January 2019. It will apply to them if and when they change schools.

**From 22 July 2019**, children seeking to enrol in Pre-Kindergarten or Kindergarten must either be up-to-date with their immunisations or exempt. If not, the child cannot be enrolled [*Public Health Act 2016*, s.141D].

It is the Principal's responsibility to decide whether a child is exempt [Public Health Act, s.141D(2)(e)].

To be exempt, the child must be in one of the following exemption categories:

- an Aboriginal or Torres Strait Islander;
- in the care of the CEO of the Department of Communities;
- living in crisis or emergency accommodation because of family violence or a risk of family violence or homelessness;
- evacuated from their ordinary place of residence because it is in an area of the State to which a declaration made under section 56 of the *Emergency Management Act 2005* applies;
- in the care of an adult, other than the child's parent or guardian, because of exceptional circumstances;
- in the care of a responsible person who holds a valid:
  - health care card,
  - pensioner concession card,
  - Veterans' Affairs white card,
  - Veterans' Affairs gold card;
- first entered Australia not more than 6 months before the time of enrolment and holds, or parent holds, one of the following visa subclasses: 200, 201, 202, 203, 204, 785, 790, or 866 [*Public Health Regulations 2017*, reg.10AB].

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<sup>7</sup> <https://www.humanservices.gov.au/individuals/services/medicare/australian-immunisation-register>

Compliance with this prohibition is the responsibility of the “person in charge of the school” and financial penalties apply for non-compliance [Public Health Act, s.141B(4) and 141D; see also Public Health Regulations, reg.10C, 10D, 10E, 10F and 10G]. Schools can obtain further information from the Department of Health<sup>8</sup>.

### **Legal requirements – student record**

On enrolment, a student record must be opened for the student under the School Curriculum and Standards Authority Act 1997<sup>9</sup> [s.19C] and SCSA must be informed [s.19E].

### **Legal requirements – attendance**

A Principal must ensure that attendance records are kept showing for each day whether each student attended, or participated in an educational programme of the school or, in the alternative, failed to attend or participate. The records may be kept in electronic form but must be capable of being reproduced in written form [School Education Act, s.28].

The child’s parents or another ‘responsible person’ should be asked to provide an acceptable explanation for any absence to the Principal [s.25]. The Principal can require a student not to attend for health reasons [s.27].

All students must participate in full-time education, training or employment, or a combination of these, until the end of the year they turn 17 years and 6 months. Under s.11 of the School Education Act the Director General, under delegation from the Minister, may exempt a child of compulsory school age from the requirement to be enrolled.

Parents of a non-government school student seeking exemption before the end of Year 10 (or before the end of the year in which the student reaches 15 years and 6 months), usually for the purpose of entering full-time employment, a traineeship or an apprenticeship, should apply to the Department of Education using the Application for Exemption from School Enrolment form available on the Department of Education website<sup>10</sup>.

When a student reaches Years 11 and 12 and participates in employment, a traineeship or an apprenticeship, a Notice of Arrangements<sup>11</sup> form must be completed seeking the Director General’s acknowledgement of the student’s participation in one or more education, training and/or employment options. Completion of a Notice of Arrangements form satisfies a parent’s legal obligation to enrol the student during the compulsory education period.

### **Legal requirements – ceasing enrolment**

Other than cancelling enrolment lawfully under s.20 of the School Education Act, the Principal’s authority to remove a student’s name from the school’s enrolment register is limited to the following circumstances:

- he or she believes on reasonable grounds that the student is enrolled in another school or is no longer resident in WA;
- the student is exempt under s.11 or is being home-schooled; or
- the Director General, as the Minister’s delegate, authorises the removal on the ground that inquiries to establish the child’s whereabouts have not been successful [s.21].

When enrolling a student transferring from another school in Western Australia, the Principal is required to notify the Principal of the student’s previous school [School Education Regulations, reg.11] and SCSA [School Curriculum and Standards Authority Act 1997, s.19F(2)].

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8 [https://ww2.health.wa.gov.au/Articles/F\\_I/Immunisation-enrolment](https://ww2.health.wa.gov.au/Articles/F_I/Immunisation-enrolment)

9 [www.legislation.wa.gov.au/legislation/statutes.nsf/law\\_a1813.html](http://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a1813.html)

10 [www.education.wa.edu.au/alternatives-to-full-time-schooling](http://www.education.wa.edu.au/alternatives-to-full-time-schooling)

11 [www.education.wa.edu.au/alternatives-to-full-time-schooling](http://www.education.wa.edu.au/alternatives-to-full-time-schooling)

### **Legal requirements – retention of records**

Each student's enrolment record must be retained by the school for seven years from the day on which the student's enrolment ceases [School Education Regulations, reg.7]. At the end of that time, or if the school closes earlier, the records are to be transferred to the Director General for permanent retention [reg.8 and 10].

A school's attendance records for each child must be retained for seven years from the day on which that student's enrolment ceases [reg.21]. If the school closes before that period expires, the attendance records are to be transferred to the Director General and may be retained permanently [reg.22].

A school whose registration is cancelled must transfer all its student records, including the SCSA records for each current student, to the Director General [School Education Act, s.167(8)]. This applies even if the school voluntarily surrenders its registration.

### **Legal requirements – anti-discrimination legislation**

Commonwealth anti-discrimination laws and the WA *Equal Opportunity Act 1984* protect applicants for enrolment and enrolled students from discrimination and harassment on a number of grounds. Students with disabilities are entitled, under the Commonwealth *Disability Discrimination Act 1992*, to reasonable adjustments to enable them to enrol, attend and participate fully in the educational programme.

## **Director General's considerations**

### **Restoring attendance**

Schools' attendance policy and procedures must make provision for the identification of students with attendance issues and implementation of appropriate measures to restore regular attendance. Schools should develop and implement procedures for following up unexplained absences and improving student attendance rates where appropriate. This may also include school based policy on maintaining enrolment over a student's extended period of absence.

In accordance with the Student Tracking System, a cross-sectoral initiative involving both government and non-government schools, 'missing' students must be reported to the Student Tracking Coordinator in the Department of Education. The Coordinator may authorise the Principal to remove the student's name from the school's attendance records and to record on the enrolment register that the enrolment has ceased. Further information is available on the [Department of Education website](#)<sup>12</sup>.

**The Director General may check** student attendance information to ensure that, where the school has been unable to locate a student within 20 days of the start of an absence and the parent/s cannot be contacted, the Principal has regarded the student as missing and contacted the Student Tracking Coordinator.

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<sup>12</sup> [www.education.wa.edu.au/non-government-schools](http://www.education.wa.edu.au/non-government-schools)

## STANDARD 7

# CRITICAL AND EMERGENCY INCIDENTS

- 7.1** The school has and implements a critical and emergency incidents policy and procedures which:
- (a) include all reportable incidents as well as other critical and emergency incidents;
  - (b) enable and require incidents to be managed in such a way as to minimise trauma and distress to students and staff and damage to property and ensure the education program is maintained or resumed, while giving highest priority to the best interests of the student or students affected;
  - (c) require all incidents to be reported and documented, including as required by standard 7.2 when applicable; and
  - (d) enable and require the Principal to notify the governing body of all incidents.
- 7.2** The governing body ensures the Director General is notified of every reportable incident as soon as practicable, and in any event within 48 hours of the incident, using the form published by the Director General for this purpose.

### Note

This standard requires all critical and emergency incidents to be reported to the school's governing body. A subset of these, defined as 'reportable incidents', must also be reported to the Director General.

### Definitions

#### ***Critical and emergency incidents***

Critical and emergency incidents which are foreseeable which, therefore, should be prepared for in policy and procedure will vary with each school's student cohort, location and other factors. Perhaps the majority of incidents will also be reportable incidents. Incidents which are not 'reportable incidents', but for which preparations should be made, include the sudden death of a student or staff member unconnected with the school premises or a school-related activity.

#### ***Grooming***

For the purpose of the definition of reportable incidents, grooming is the use of a variety of manipulative and controlling techniques with a vulnerable subject in order to establish trust or normalise sexually harmful behaviour with the overall aim of facilitating exploitation and/or avoiding exposure.

## **Reportable incidents**

For the purpose of standard 7, the following are reportable incidents:

- (1) The death of a student or staff member at school or during a school-related activity, or following an incident at school or during school-related activity.
- (2) An incident involving injury, illness or trauma to a student or staff member at school or during a school-related activity requiring ambulance or hospital attendance.
- (3) An incident requiring a police or other emergency services response when a student appears to have been taken or removed, or goes missing and cannot be accounted for, from the school or from a school-related activity without proper authority.
- (4) An incident requiring the school to be locked down or to evacuate staff and students, or reduce the number of students or staff attending, or to close for any duration for health or safety reasons.
- (5) The receipt of a complaint or allegation of child abuse, including but not limited to sexual abuse, committed against a student –
  - (a) by a staff member or another student; or
  - (b) by another person on the school premises or during a school-related activity; whether the abuse is alleged to have occurred recently or in the past.
- (6) Issuing a formal warning to or ceasing the employment of a staff member for a breach of the Code of Conduct suspected to have involved grooming behaviour.

## **Trauma**

For the purpose of standard 7.1 and the definition of reportable incidents, a trauma is a psychological wound or injury suffered at school or during a school-related activity [Australian Psychological Society].

## **Director General's considerations**

### **Best interests of students**

The United Nations Committee on the Rights of the Child has given the following guidance as to how a student's best interests may be effectively assessed:

- consult the student, giving increasing weight to his or her opinion as he or she grows to adulthood and involving the parents in planning for an appropriate response;
- ensure the student's basic needs are met consistently with his or her identity, personality and expressed preferences, noting that emotional care is a basic need;
- prioritise maintenance or reinstatement of the student's rights to health, safety and education; and
- promote the student's wellbeing and healthy development [UN Committee on the Rights of the Child, General Comment No. 14 (2013)].

An individual student's best interests will vary depending on his or her particular needs and cultural, religious and other identity. Schools should know and understand each student's needs and identity and make appropriate efforts to consult students affected by critical incidents to ensure their best interests are identified and prioritised.

When an incident affects more than one student, it may not be feasible to assess each individual student's best interests, especially immediately following the incident; rather, the students' immediate best interests would be as understood by the school based on a general assessment of the incident. Schools should be alert to the needs of any students who may require specific and additional responses following such an incident.

### **Policy and procedures**

Schools must have a critical and emergency incidents policy which requires the Principal to notify the governing body of all such incidents which occur and to ensure that each is managed in the best interests of affected students. This requires that the risk of harm or actual harm to students' wellbeing and the measures needed to promote their recovery are prioritised and not made subservient to other considerations including financial or reputational concerns.

The policy must separately define reportable incidents and require, in addition, that the Director General is notified of each reportable incident as soon as practicable and in any event within 48 hours.

A school's critical and emergency incidents policy and procedures, including its Emergency Management Plan, must be comprehensive in detailing how the school will respond in the event of the types of incidents that are reasonably foreseeable. These should be detailed in respect of the action to be taken in the event of an incident, the required follow-up to the incident, and how both the incident itself and the action taken are to be recorded.

Schools should be able to evidence that they have undertaken, by self-audit or external review, regular review of the adequacy and performance of the school's critical and emergency incidents management policy and procedures.

At a minimum a school's policy and procedures must cover:

- risk assessment – the school identifies risks, assesses and priorities risks, and develops treatment strategies;
- prevention – the school acts in a way to minimise the risk of occurrences;
- preparedness – the school has developed an Emergency Management Plan, the Plan has been communicated to staff, that staff are trained, and the Plan is tested and modifications made;
- response – the school recognises the potential that emergency response procedures may need to be initiated; and
- recovery – the school has a plan to initiate recovery and return to normal operations, and as part of this recovery, there is a process for the reviewing and updating of the Plan and other policies as required.

### **Notifications to the Director General**

Notification of reportable incidents must be on the approved form<sup>13</sup> and sufficiently detailed to enable the Director General to assess the school's responses in line with this standard and other applicable registration standards and requirements. Further information may subsequently be sought about the school's resolution of the incident.

Reportable incident 5 becomes reportable when the Principal or governing body knows that a mandatory report has been made in regard to a student at their school, and the incident meets the definition of an allegation against a staff member, another student, or another person on the school premises or during a school-related activity. The description of the incident in the notification to the Director General need only record that a mandatory report has been made and provide the report receipt number. The identity of the persons involved, and the identity of the mandatory reporter, must not be disclosed on the form.

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<sup>13</sup> [www.education.wa.edu.au/ongoing-obligations](http://www.education.wa.edu.au/ongoing-obligations)

## STANDARD 8 BOARDING

- 8.1** Supervisory staff employed in school boarding accommodation are competent, fit and proper persons, qualified to manage the care, welfare and needs of all boarding students.
- 8.2** The school maintains open and effective communication with the parents and guardians of boarders.
- 8.3** The boarders receive a well-balanced and nutritious diet.
- 8.4** The boarders are consulted on all matters affecting their accommodation, recreation, support services, code of conduct, safety and wellbeing.

### Definitions

#### **Supervisory staff**

For the purpose of standard 8.1, the supervisory staff are all those whose duties include the supervision of boarders at any time.

Note that boarding supervisors, like teachers and nurses, are now mandatory reporters. A “boarding supervisor” is “a person who holds an office or position at a boarding facility the duties of which include the supervision of children living at the facility” [*Children and Community Services Act 2004*, s.124A].

### Director General’s considerations

#### **Staff**

The Director General may check that supervisory staff qualifications, including first aid qualifications, are relevant to the direct care and development of students.

As to whether staff employed to supervise boarders are fit and proper persons, the term ‘fit and proper’, as with governing body members, is intended to give the widest possible discretion to the decision-maker. It covers both character and competence, enabling the decision-maker to take into account matters which can be fairly seen to be relevant to the role. A person with a history such as the following would not be considered a fit and proper person in this role:

- any conviction as an adult for any offence involving children and/or violence; or
- any criminal conviction for fraud or similar, e.g. stealing as a servant; or
- any finding of negligence or serious incompetence in a similar role.

A school’s boarding staff recruitment policy should at least outline the offending history considered relevant to fitness and propriety, other checks to be made, qualifications and other matters considered to be relevant.

Professional learning for all staff within boarding facilities about the school’s Code of Conduct and other child-safe policies and procedures is to be conducted annually. Boarding supervisors must also receive professional learning annually in their mandatory reporting obligations.

## **Policies and procedures**

Policies and procedures must be in place for student boarding facilities which detail how a safe, healthy and supportive boarding environment for all enrolled boarders, including those with disabilities, is being provided and maintained at all times. Students, parents and staff must be given a clear and comprehensive statement of these policies and support their implementation.

The policies and procedures should be benchmarked against contemporary best practice in protecting the safety and wellbeing of students in boarding facilities, as determined by a relevant peak body, such as the *Boarding Standard for Australian schools and residences* [AS 5725:2015] published in July 2015.

## **Communication with parents or guardians**

Mechanisms for regular two-way communication with parents or guardians should be developed and maintained and take account of the different communication channels accessible to parents. The school should facilitate regular, private communication between the boarders and their parents/guardians.

## **Diet**

Catering arrangements for students should be informed by relevant dietary guidelines approved by a peak body such as the National Health and Medical Research Council.

## **Consultation with boarders**

For the purpose of standard 8.4, a satisfactory consultation with boarders will involve:

- informing the boarders about the overall process, including who else will be consulted, and its desired outcome;
- providing information relevant to the issue, which may include the limits of what outcome is possible, in accessible language;
- offering the boarders a choice of methods to communicate their individual and collective views, including where unanimity cannot be achieved; and
- giving due consideration to the opinions expressed.

Models of consultation may vary depending on the issue to be resolved. In some cases it will be appropriate to seek the views of a representative sample of boarders or from a boarders' council, particularly where the council members have been selected by the boarders themselves.



## STANDARD 9 COMPLAINTS

- 9.1** The school has and implements a complaint handling system which satisfies each of the key action areas of Principles 6 and 9 of the National Child Safe Organisation Principles.
- 9.2** The school's complaint handling system conforms to the rules of procedural fairness and includes a system for review.
- 9.3** The school publishes information to the school community about the role of the Director General in monitoring the school's compliance with these standards including, but not limited to, standards 9.1 and 9.2, and her authority to respond to instances of non-compliance.

### Note

The National Office of Child Safety has produced a guide<sup>14</sup> to complaint handling consistent with the National Child Safe Organisations Principles.

### Definitions

#### ***Complaint***

An expression of dissatisfaction made to the school about its services, decisions, actions or those of its staff, or about the complaint management process itself.

#### ***Director General***

The Director General is the chief executive officer appointed in accordance with s.151 of the *School Education Act 1999*; currently the Director General, Department of Education.

#### ***National Child Safe Organisation Principles***

The National Principles for Child Safe Organisations<sup>15</sup> incorporate the ten standards recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse in December 2017 but cover all forms of child abuse. They were developed by the Australian Human Rights Commission and endorsed by all members of the Council of Australian Governments (COAG) in February 2019.

#### ***Principle 6 key action areas***

- 6.1 The organisation has an accessible, child focused complaint handling policy which clearly outlines the roles and responsibilities of leadership, staff and volunteers, approaches to dealing with different types of complaints, breaches of relevant policies or the Code of Conduct and obligations to act and report.
- 6.2 Effective complaint handling processes are understood by children and young people, staff, families and volunteers, and are culturally safe.
- 6.3 Complaints are taken seriously, and responded to promptly and thoroughly.

<sup>14</sup> <https://pmc.gov.au/domestic-policy/national-office-child-safety>

<sup>15</sup> [childsafe.humanrights.gov.au/national-principles](https://childsafe.humanrights.gov.au/national-principles)

- 6.4 The organisation has policies and procedures in place that address reporting of complaints and concerns to relevant authorities, whether or not the law requires reporting, and co-operates with law enforcement.
- 6.5 Reporting, record keeping, privacy and employment law obligations are met.

### **Principle 9 key action areas**

- 9.1 The organisation regularly reviews, evaluates and improves child safe practices.
- 9.2 Complaints, concerns and safety incidents are analysed to identify causes and systemic failures to inform continuous improvement.
- 9.3 The organisation reports on the findings of relevant reviews to staff and volunteers, community and families and children and young people.

### **Rules of procedural fairness**

These rules require:

- (a) a hearing appropriate to the circumstances;
- (b) lack of bias;
- (c) evidence to support a decision; and
- (d) inquiry into matters in dispute.

## **Director General's considerations**

### **Complaint format**

In order to be covered by this standard, a complaint does not have to be submitted in writing. Students, in particular, should:

- be able to make use of alternative formats;
- know that their complaints can be made to anyone in the school they trust or feel safe to speak to; and
- understand that their complaints will be taken seriously.

Although it may not be possible to obtain sufficient details when a complaint is made anonymously, such complaints must still be accepted, recorded, evaluated and actioned to the extent possible for any information they may contain.

### **Complaint handling and recording**

A school's published complaints policy and procedures should clearly outline how the school will satisfy this standard in the event of a complaint being received. The complaints policy and procedures must detail the roles and responsibilities of staff in handling complaints, as required by key action area 6.1. The complaints policy and procedures must detail the roles and responsibilities of school staff and leadership in recording, investigating and resolving complaints and analysing them to identify causes and inform continuous improvement, as required by key action area 9.2.

Schools should maintain a detailed complaints register with capacity to record:

- date of complaint;
- name of complainant and relationship to the school;
- subject matter of the complaint, including the name of any person complained about and his or her relationship to the school;
- complaint investigator and position or role at the school;
- date investigation completed;
- whether complaint upheld;
- resolution agreed with or offered to complainant;
- date of referral for review (for example by the governing body);
- complaint reviewer and relationship to the school;
- date review finalised; and
- review resolution agreed with or offered to complainant.

## **Culturally safe complaints management**

The Royal Commission did not define this concept in the context of complaint handling. The following definition of a culturally safe environment was adopted:

*an environment 'where there is no assault, challenge or denial of [a person's] identity, of who they are and what they need' and refers specifically to Aboriginal and Torres Strait Islander peoples. This encompasses Aboriginal and Torres Strait Islander individuals' own assessment of their safety and capacity to engage meaningfully, on their own terms with a non-Indigenous person or institution. This requires action from the non-Indigenous person or institution to listen, enable and support these environments, with accountability to Aboriginal and Torres Strait Islander colleagues or service users* [Final Report, Volume 1, page 322].

The Royal Commission's reports and other papers indicate that a culturally safe complaint handling process will be one which overcomes cultural barriers and taboos to disclosure, provides culturally-appropriate means of making complaints, is managed by people who are aware of and sensitive to potential complainant's culture and cultural attitudes, including those arising from historical trauma and mistrust of authorities, and which facilitates access to culturally-appropriate therapeutic and other services as required.

## **Role of the Director General**

Schools are required to publish information about the role of the Director General and the following is recommended:

"The Director General of the Department of Education is responsible for ensuring that the school observes the registration standards, including the standard about its complaints handling system. Any student, parent or community member is entitled to contact the Director General with concerns about how the school has dealt with a complaint. Information is available on the [Department of Education website](#)<sup>16</sup>. While the Director General may consider whether the school has breached the registration standards, she does not have power to intervene in a complaint or override the school's decision."

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<sup>16</sup> [www.education.wa.edu.au/non-government-school-complaints](http://www.education.wa.edu.au/non-government-school-complaints)

# STANDARD 10

## CHILD ABUSE PREVENTION

- 10.1** The school implements the National Child Safe Organisation Principles.
- 10.2** The school regularly reviews its policies, procedures and practices that aim to ensure students' safety and wellbeing at school and during school-related activities in consultation with its students.
- 10.3** The school cooperates in the Multi-Agency Protocol for Education Options for Young People Charged with Harmful Sexual Behaviours and implements a risk assessment and management plan for any such young person enrolled at the school.
- 10.4** The school implements a Code of Conduct for all staff, governing body members, practicum students and volunteers, and boarding staff if relevant, which:
- (a) is consistent with the Example Code of Conduct, published by the Australian Human Rights Commission, and with the National Child Safe Organisation Principles;
  - (b) requires them to report objectively observable behaviour which breaches or is suspected of breaching the Code, other than those subject to mandatory reporting obligations, to the Principal, a designated senior staff member or the chair of the school's governing body; and
  - (c) assures their protection from victimisation or other adverse consequences if they make such reports in good faith.
- 10.5** All staff, governing body members and regular volunteers participate in learning opportunities at least annually about the law with respect to mandatory reporting of child sexual abuse and the school's policies, procedures and practices that aim to ensure students' safety and wellbeing at school and during school-related activities, including the creation and maintenance of child-safe physical and online environments.
- 10.6** All students receive a protective behaviours and sexual abuse prevention education which:
- (a) is developed by experts in child abuse prevention;
  - (b) is age and developmental-stage appropriate;
  - (c) is culturally-appropriate;
  - (d) is integrated into the curriculum of the school and makes relevant subject-matter links;
  - (e) includes e-safety education; and
  - (f) builds practical self-protective skills and strategies.
- 10.7** The school, in consultation with its students, develops and regularly reviews a student code of conduct and guidelines on how to comply which:
- (a) sets out minimum standards of conduct;
  - (b) prohibits bullying, harassment and other forms of peer-to-peer abuse; and
  - (c) requires respect for the privacy and human dignity of other students and boarders where relevant.
- 10.8** Parents and guardians receive information about the protective behaviours curriculum, the Code of Conduct, the student code of conduct and when, how and whom to tell when they have concerns about grooming, child abuse or other behaviour which is not permitted by either code.

- 10.9** The school's records of complaints, allegations and findings related to grooming and child abuse, whether involving former or current staff or students:
- (a) contain as much detail as possible;
  - (b) are stored securely; and
  - (c) are not destroyed without the approval of the Director General or, where their retention becomes impracticable or unduly onerous, are forwarded to the Director General with her permission for retention in accordance with the *State Records Act 2000*.
- 10.10** The school responds appropriately to complaints and allegations of grooming, child abuse and breaches of the Code of Conduct or student code of conduct in the best interests of students and in accordance with policies and procedures which at least require that:
- (a) the complainant is informed about the services, including advocacy and support services, which may be available; and
  - (b) the matter is reported promptly to the responsible government authorities and their direction is sought and complied with as to when, what and by whom information related to the matter and its investigation may be given to the person against whom the complaint or allegation is made, the complainant and his or her parents/guardian, other affected students and their parents and guardians, and the wider school community.

## Notes

Resources developed to assist organisations to implement the National Child Safe Organisation Principles have been or are being developed by:

- Australian Human Rights Commission<sup>17</sup>;
- National Office of Child Safety<sup>18</sup>;
- Commissioner for Children and Young People WA<sup>19</sup>.

For the purpose of standard 10.4(b), the Code of Conduct is to identify the designated senior staff member to whom reports can be or must be made, if any, by name or role. Further, schools are advised that they may, should they wish to do so, require teachers and other mandatory reporters to inform the governing body chair, Principal or a designated senior staff member when they have made a mandatory report and to provide the report number, date and details in confidence. The recipient of that information must not reveal the identity of the mandatory reporter.

For the purpose of standard 10.9(a), schools are reminded that it is not within their remit to investigate allegations of child abuse. Where the alleged victim is a child, such an allegation will be the subject of a mandatory report in the case of sexual abuse or a child protection concern in the case of other forms of abuse and neglect. Where the alleged victim is now an adult, he or she should be referred to WA Police. Investigation by the school may taint a subsequent investigation by the appropriate authorities. This has implications for the amount of detail which a school's record can or ought to contain. It is to contain as much detail as possible within these constraints.

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<sup>17</sup> <https://childsafef.humanrights.gov.au>

<sup>18</sup> <https://pmc.gov.au/domestic-policy/national-office-child-safety>

<sup>19</sup> <https://www.ccyp.wa.gov.au/>

## Definitions

### **Advocacy and support services**

Services which act alongside, or on behalf of, victims and survivors of child sexual abuse to support their rights and interests while providing tangible and practical support.

### **Bullying and harassment**

For the purpose of standard 10.7 the Director General has adopted the national definitions of bullying and harassment available on the [Student Wellbeing Hub](#)<sup>20</sup> and [Bullying. No Way!](#)<sup>21</sup> websites and expects schools to adopt these or closely similar definitions.

- **Bullying** is an ongoing misuse of power in relationships through repeated verbal, physical and/or social behaviour that causes physical and/or psychological harm. It can involve an individual or a group misusing their power over one or more persons.

Bullying can happen in person or online, and it can be obvious (overt) or hidden (covert). Bullying of any form or for any reason can have long-term effects on those involved, including bystanders.

Single incidents and conflict or fights between equals, whether in person or online, are not defined as bullying. However, these conflicts still need to be addressed and resolved.

- **Harassment** is behaviour that targets an individual or group due to their identity, race, culture or ethnic origin; religion; physical characteristics; gender; sexual orientation; marital, parenting or economic status; age; ability or disability and that offends, humiliates, intimidates or creates a hostile environment.

Harassment may be an ongoing pattern of behaviour, or it may be a single act. It may be directed randomly or towards the same person/s. It may be intentional or unintentional (i.e. words or actions that offend and distress one person may be genuinely regarded by the person doing them as minor or harmless).

### **Child abuse**

Four forms of child abuse are covered by WA law and are defined by the Department of Communities:

- (1) Physical abuse occurs when a child is severely and/or persistently hurt or injured by an adult or caregiver.
- (2) Sexual abuse occurs when a child is exposed to, or involved in, sexual activity that is inappropriate to the child's age and developmental level, and includes sexual behaviour in circumstances where:
  - (a) the child is the subject of bribery, coercion, a threat, exploitation or violence;
  - (b) the child has less power than another person involved in the behaviour; or
  - (c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.
- (3) Emotional abuse includes:
  - (a) psychological abuse; and
  - (b) being exposed to an act of family and domestic violence.
- (4) Neglect is when children do not receive adequate food or shelter, medical treatment, supervision, care or nurturance to such an extent that their development is damaged or they are injured. Neglect may be acute, episodic or chronic.

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<sup>20</sup> [studentwellbeinghub.edu.au/topics/protecting-against-bullying#/](http://studentwellbeinghub.edu.au/topics/protecting-against-bullying#/)

<sup>21</sup> [bullyingnoway.gov.au/WhatIsBullying/DefinitionOfBullying](http://bullyingnoway.gov.au/WhatIsBullying/DefinitionOfBullying)

## **Complainant**

In standard 10.10, the complainant is the student or former student against whom the alleged grooming or child abuse is claimed to have been committed.

## **Culturally-appropriate**

The definition adopted by the Royal Commission into Institutional Responses to Child Sexual Abuse was:

*an approach to policy, intervention, service delivery and inter-group interaction that is based on the positive acceptance of the cultural values and expectations of an individual and their community* [Final Report, Volume 1, page 321].

A culturally-appropriate protective behaviours and sexual abuse prevention education will reflect cultural values to enable students to engage effectively with the information, attitudes and practices being learned without offending cultural norms and expectations.

## **Emotional abuse**

Emotional abuse occurs when an adult harms a child's development by repeatedly treating and speaking to a child in ways that damage the child's ability to feel and express their feelings.

## **Example Code of Conduct**

The Example Child Safe Code of Conduct<sup>22</sup> has been published by the Australian Human Rights Commission and is consistent with the National Child Safe Organisation Principles.

## **Good faith**

For the purpose of standard 10.4(c) a report is made in good faith when it is relevant to the school's standard of conduct and made in the honest belief that the matter should be raised. Good faith may be negated by malice.

## **Grooming**

The use of a variety of manipulative and controlling techniques with a vulnerable subject in order to establish trust or normalise sexually harmful behaviour with the overall aim of facilitating exploitation and/or avoiding exposure.

## **Multi-Agency Protocol for Education Options for Young People Charged with Harmful Sexual Behaviours**

The Multi-Agency Protocol, developed by the Department of Education for all education sectors in Western Australia, describes the process by which information about young people charged with harmful sexual behaviours is shared and managed by governing bodies and schools in accordance with sections 28A-C of the *Children and Community Services Act 2004*.

School governing body chairs will receive information and resources from the Department of Education in the event a student is charged with a harmful sexual behavior. The Protocol has been approved by both AISWA and CEWA.

## **National Child Safe Organisation Principles**

The National Principles for Child Safe Organisations<sup>23</sup> incorporate the ten standards recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse in December 2017 but cover all forms of child abuse. They were developed by the Australian Human Rights Commission and endorsed by all members of the Council of Australian Governments (COAG) in February 2019.

## **Psychological abuse**

Repeatedly treating and speaking to a child in ways that damage the child's perceptions, memory, self-esteem, moral development and intelligence. It is a form of emotional abuse.

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<sup>22</sup> [childdsafe.humanrights.gov.au/tools-resources/practical-tools](https://childdsafe.humanrights.gov.au/tools-resources/practical-tools)

<sup>23</sup> [childdsafe.humanrights.gov.au/national-principles](https://childdsafe.humanrights.gov.au/national-principles)



### **Regular volunteer**

A regular volunteer is one who attends the school or school-related activity at regular periodic intervals during a school year or one who is frequently called upon to assist in diverse capacities. For the purpose of standard 10.5, a regular volunteer is not a member of staff. Members of staff may include people who are not paid.

## **Director General's considerations**

### **Consultation with students**

For the purpose of standards 10.2 and 10.7, a satisfactory consultation with students will involve:

- informing the students about the overall process, including who else will be consulted, and its desired outcome;
- providing information relevant to the issue, which may include the limits of what outcome is possible, in accessible language;
- offering the students a choice of methods to communicate their individual and collective views, including where unanimity cannot be achieved; and
- giving due consideration to the opinions expressed.

Models of consultation may vary depending on the issue to be resolved. In some cases it will be appropriate to seek the views of a representative sample of students or from a students' council, particularly where the council members have been selected by the students themselves.

### **Records**

For the purpose of records made in accordance with standard 10.9, schools should implement the *Records Retention & Disposal Schedule for Non-Government Schools*<sup>24</sup> published by the Australian Society of Archivists. This advises that:

- reasonable steps be taken to ensure information is stored appropriately and is protected from misuse, modification, unauthorised access or disclosure; and
- records required as part of an investigation, inquiry or legal process be identified, preserved and not be disposed of.

The State Records Act does not apply to the records while they remain in the school's custody.

The inconvenience of retaining school records will not justify a school in destroying them contrary to the standard or in seeking their transfer to the Director General. Retention by the school will only be deemed impracticable or unduly onerous if the school closes or can establish that retention in an appropriate format would significantly affect its financial viability. Further, the Director General expects that records a school seeks to transfer to her are appropriately indexed for ease of retrieval by student's name, alleged perpetrator's name and year.

### **Regular review of policies and procedures**

For the purpose of standards 10.2 and 10.7, review every second year will be reasonable in the case of most school policies and procedures provided that an earlier review is undertaken as a matter of course whenever a complaint, incident or other information indicates there has been a policy or procedural failure.

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24 <https://www.archivists.org.au/products/asa-publications/records-retention-schedule-non-governm-school>



# STANDARD 11

## FINANCIAL RESOURCES

**11.1** The school is financially viable.

**11.2** The school's financial resources are sufficient to enable it to deliver its curriculum or curriculums for the number of students enrolled in the year levels for which the school is or seeks to be registered and to provide the necessary ancillary support.

### Evidence related to financial viability

To enable a financial viability assessment to be conducted, the following are required:

- Most recent audited financial statements including a statement of income and expenditure (statement of comprehensive income), balance sheet (statement of financial position) and statement of cash flow. Financial statements must include all accompanying notes.
- Independent audit report and management letter and, if applicable, the school's response to audit findings and recommendations. The report and letter should be prepared by an auditor registered with ASIC.
- Details of any bank overdraft facilities available to the school.
- Details of any financial guarantees, from other entities, applicable to the school.
- Schedule of loan agreements, if applicable, including loans payable, loans receivable, internal loans and external loans. The following information is required for each loan: loan provider, loan amount, current outstanding debt, repayment amount and frequency, interest rate and security against the debt.
- Property lease or rental agreements (if applicable).
- Student enrolment projections, including any explanatory detail supporting assumptions made.
- Current year's budget and forecast budgets for three to five years including, where relevant, plans for asset investment and capital expenditure.
- Public liability, professional indemnity, buildings and other insurance policies.

Schools may be requested to submit additional evidence in relation to their ongoing financial viability and management.

### Definitions

#### ***Ancillary support***

Support which ensures equity of access to educational programmes for all enrolled students. The nature of this support will be determined by the needs of individual students. It may include, for example:

- extension programs for Gifted and Talented students;
- assistive technologies;
- counselling.

#### ***Financially viable***

A school's financial resources must be sufficient to enable it to operate effectively in its delivery of school-based educational programmes to students and ancillary support. A financially viable school is one that is expected to continue as a 'going concern' throughout its full term of registration.

# STANDARD 12

## MANAGEMENT OF STUDENTS' BEHAVIOUR

- 12.1** All students receive positive guidance and encouragement towards acceptable behaviour and are given opportunities to interact and develop respectful and positive relationships with each other and with staff members and volunteers.
- 12.2** The school explicitly forbids the use of any form of child abuse, corporal punishment or other degrading punishment as defined and provides clear guidance to all members of the school community about what forms of behaviour management, discipline or punishment are permitted.
- 12.3** The administration of permitted forms of behaviour management, discipline or punishment conforms to the rules of procedural fairness and non-discrimination.

### Definitions

#### ***Child abuse***

Four forms of child abuse are covered by WA law and are defined by the Department of Communities:

- (1) Physical abuse occurs when a child is severely and/or persistently hurt or injured by an adult or caregiver.
- (2) Sexual abuse occurs when a child is exposed to, or involved in, sexual activity that is inappropriate to the child's age and developmental level, and includes sexual behaviour in circumstances where:
  - (a) the child is the subject of bribery, coercion, a threat, exploitation or violence;
  - (b) the child has less power than another person involved in the behaviour; or
  - (c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.
- (3) Emotional abuse includes:
  - (a) psychological abuse; and
  - (b) being exposed to an act of family and domestic violence.
- (4) Neglect is when children do not receive adequate food or shelter, medical treatment, supervision, care or nurturance to such an extent that their development is damaged or they are injured. Neglect may be acute, episodic or chronic.

#### ***Corporal punishment***

Any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light; typically involving hitting the child with the hand or with an implement; can also include, for example, forcing the child to stay in an uncomfortable position. It does not include the use of reasonable physical restraint to protect the child or others from harm [UN Committee on the Rights of the Child, General Comment No. 8 (2006)].

### ***Degrading punishment***

Any punishment which is incompatible with respect for human dignity, including corporal punishment and non-physical punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child [UN Committee on the Rights of the Child, General Comment No. 8 (2006)].

### ***Emotional abuse***

Emotional abuse occurs when an adult harms a child's development by repeatedly treating and speaking to a child in ways that damage the child's ability to feel and express their feelings.

### ***Psychological abuse***

Repeatedly treating and speaking to a child in ways that damage the child's perceptions, memory, self-esteem, moral development and intelligence. It is a form of emotional abuse.

### ***Rules of procedural fairness***

These rules require:

- (a) a hearing appropriate to the circumstances;
- (b) lack of bias;
- (c) evidence to support a decision; and
- (d) inquiry into matters in dispute.

## **Director General's considerations**

### **Policies and procedures**

A school's behaviour management or disciplinary policies and procedures must be sufficiently clear and certain, as well as disseminated to all students, to ensure that students can be confident in knowing what behaviour will be a breach of discipline and what consequences may result. While group punishments, where a whole group is punished for the wrongdoing of one or more group members, are not explicitly banned, they will rarely be consistent with providing positive guidance or procedural fairness.

## STANDARD 13

# MINIMUM AGE OF ENROLMENT

**13.1** Unless the Director General provides prior approval, the school does not permit any child to be enrolled at the school before the final year of their early education period and the child has turned 3 years of age.

**13.2** A CARE school does not permit any student to be enrolled before the eighth year of their compulsory education period.

### Note

To be enrolled lawfully in a non-government school a child must be in the final year of his or her early education period and on or past his or her third birthday. In addition, the school must be registered to provide Pre-Kindergarten and not exceed the number of hours per week specified in standard 3.3.

### Definitions

#### *Enrolled*

A student is enrolled when enrolment is complete in accordance with the school's or system's policies and procedures. Generally an expression of interest, even payment of a deposit, is not enrolment. Further, it is normal and accepted practice that schools will commence their enrolment process before the day on which the student commences school.

### Director General's considerations

#### **Starting school before third birthday**

**The Director General may give approval** for a child to begin school before his or her third birthday in a situation such as the following:

- there is no day care service or day care place available within a reasonable travelling distance of the child's home; and
- the child's third birthday falls within two weeks after the beginning of the school term.

Approval must be obtained before a child under 3 years is enrolled and permitted to attend school.

# STANDARD 14

## DELIVERY OF THE CURRICULUM

- 14.1** The provision of educational programmes exclusively by means of online-only learning is restricted to students who are:
- (a) geographically isolated;
  - (b) temporarily living or travelling interstate or overseas;
  - (c) participating in elite performance in sport or the arts; or
  - (d) unable to attend at a school due to:
    - (i) diagnosed physical or mental illness or disability;
    - (ii) bail conditions; or
    - (iii) another special circumstance acceptable to the Director General.

### Notes

This standard restricts the delivery of online-only learning to students who meet the stipulated criteria. It does not restrict the delivery of some online learning to students attending the school in person.

Schools delivering educational programmes to students exclusively by means of online-only learning are under the same obligations to comply with the registration standards and other requirements as mainstream schools, in particular:

- standard 1 regarding delivery of the curriculum;
- standard 2 regarding the staff to student ratios; and
- standard 5.5 regarding provision of ancillary support to ensure equity of access to educational programmes.

### Definitions

#### ***Geographically isolated***

A student is geographically isolated so as to be eligible for enrolment in online-only learning if the student is unable to attend a school that provides the year level of education or the learning support or extension programmes the student requires, or that meets the student's cultural and/or spiritual needs, because of distance or the unreasonable travel time which would be involved.

#### ***Online-only learning***

Online-only learning is the online provision of educational programmes where in-person contact between student and teacher and on-site attendance at a school either does not occur or is extremely limited.

#### ***Unable to attend***

Inability to attend a school in person must be distinguished from unwillingness to attend or inconvenience of attending. The student must be *prevented* from attending or from fairly and fully accessing, or participating in, a reasonably accessible school's educational programmes because of one or more of the listed reasons.

## Director General's considerations

### Learning support or extension needs cannot be met

Schools are established and registered for the primary purpose of providing educational programmes. All schools in Western Australia, both government and non-government, are required to meet the learning needs of every student they accept for enrolment. In a rare case, a reasonably accessible school will not be able to cater for a particular student's learning needs whether they be for targeted learning support or a gifted and talented program. In such a case, the proposed school may be required to establish that those learning needs will be or are being met by its online-only programme.

### Cultural needs

Although schools are not permitted to discriminate on the ground of a person's race, colour, descent, ethnic or national origin or nationality, they may struggle to fully reflect the values and beliefs of all cultures represented among their students in their organisation, policies and practices. In some cases, this disconnect may prevent a student from fully accessing the educational programmes offered. Such a school may fairly be said not to meet the student's cultural needs.

To justify enrolment in online-only learning by reference to this criterion, the proposed school may be required to demonstrate that, unlike schools within a reasonable distance or travel time, its online-only programme will meet or is meeting the student's cultural needs.

### Spiritual needs

To justify enrolment in online-only learning by reference to this criterion, the spiritual or religious affiliation of the student must be established and demonstrated to be the same as that offered by the school, and different from that of all schools within a reasonable distance or travel time. A young student's spiritual affiliation may be as identified by his or her parents; as a student grows, his or her spiritual needs will be increasingly assessed by reference to his or her own beliefs and affiliation.

The term 'spiritual' is used in recognition of the fact that some belief systems, for example Aboriginal traditions and Buddhist philosophy, are not always accorded recognition as religions; however, the core component of this criterion is the student's religious beliefs and affiliation.

### Unreasonable travel time

As a general guide, a daily round trip from home to school and return taking longer than three hours would be considered an unreasonable travel time.

### Temporarily living or travelling overseas

As a general guide, overseas residence or travel for longer than two school years would not be considered to be temporary. However, if the reason for the student living overseas is that a parent has been posted for a set term and that term is known from the outset, the school may be justified in concluding that the situation will be temporary, despite the set term being longer than two school years.

### Elite performance

Elite performance means performance at a state, national or international level and includes training and other preparation for participating in that performance. For example, a student may be a member of a state or national sporting team or acting in a film or stage performance. These students may be enrolled in online-only learning while so participating, but not otherwise.

### Diagnosed illness

An illness which prevents a student's attendance at a mainstream school must be diagnosed by a medical practitioner and the school provided with an explanation as to why the illness means the student cannot attend in person. The illness may be physical or mental and may be temporary, chronic or permanent and more properly described as a disability. In accepting a student's enrolment in online-only learning under this criterion, a school will need to consider how it is able to meet the student's ancillary support needs as required by standard 5.5.

### **Other special circumstances**

**The Director General accepts** the following special circumstances for enrolment in online-only learning provided appropriate evidence is obtained, prior to enrolment, by the Principal:

- the student is temporarily travelling within Western Australia; or
- the student has experienced significant trauma at a mainstream school, for example as a result of sustained bullying, and his or her parents have decided that online-only learning is the best option during the student's recovery.

The **Director General may approve** other special circumstances on receipt of evidence:

- of the reasons for the student's inability to attend in person;
- that online-only learning will address the reasons for the inability to attend in person; and
- that the proposed school's online-only learning programme will meet the individual student's education and care needs.

# STANDARD 15

## NUMBERS OF CHILDREN ENROLLED

**15.1** The total number of students enrolled in a CARE school does not exceed the number whose needs and safety can be effectively catered for and protected within the financial and other resources of the school.

### Note

CARE schools should note other standards which may be solely or particularly relevant to their management and programmes:

- Standards 1.2 and 1.3 regarding Individual Education Plans;
- Standard 6.2 requiring CARE schools to document their reasons for enrolling each student;
- Standard 13.2 limiting CARE schools to secondary-aged students; and
- Standard 14.1 regarding the enrolment of students in online-only learning.

### Definitions

#### **CARE school**

A CARE school is one established and registered solely for the education of students at educational risk.

#### **Educational risk**

A student is at educational risk if he or she is of compulsory school age but unable, for one or more reasons such as the following, to participate in mainstream schooling:

- is disengaged from school or vocational education and training as evidenced by persistent non-attendance or a failure or refusal to enrol;
- experiences learning disadvantages or difficulties which cannot be effectively catered for at a reasonably local mainstream school;
- is affected by life risk factors such as domestic violence, abuse, homelessness, transience, addiction, chronic ill-health or pregnancy;
- is subject to a Children's Court order;
- is the subject of a Responsible Parenting Agreement covering school attendance; or
- is a persistent or serious juvenile offender.

### Director General's considerations

#### **The Director General may check:**

- the attendance patterns of students;
- levels of student retention;
- the extent of re-engagement in mainstream schooling; and
- the standards of education achieved by students.



## ► 3. STANDARD OF EDUCATION

### Overview

Section 160(1)(g) of the School Education Act requires the Director General to consider whether the school will provide a satisfactory standard of education of the kind for which registration is sought or has been granted. While the registration standards impose a number of requirements which will contribute to the standard of education, this provision is wider. It could enable the Director General to conclude that, even if all relevant registration standards are observed, a school nevertheless does not provide a satisfactory standard of education for its students.

### Evidence related to the standard of education

The following may be requested before, during or following the school visit:

- An explanation as to how and when the following are monitored and reported to the governing body:
  - student learning and growth in student achievement;
  - curriculum and assessment delivery; and
  - student engagement.
- Policies and processes, endorsed by the governing body, for achieving improvements in student learning.
- Samples of student work.
- An analysis of student learning against individual, school, state and national expectations as applicable.
- An analysis of individual student, year cohort and/or subject cohort outcomes over time.
- A comparison of student and school NAPLAN data and/or other external assessments with the school's own assessment records for the same students.
- The actions implemented by the school in response to the school's most recent National Quality Standard internal audit for Pre-Kindergarten to Year 2.
- An analysis of the most recent Year 12 outcomes and destinations data.
- Documentation of planning and implementation to ensure that teaching and learning programmes meet the diverse learning needs of all students.
- Documentation of the re-engagement strategies implemented when a student's unapproved absences are having a significant impact on the student's progress with the learning programme.
- Parent and student survey results and evidence of changes made in response to any concerns raised about the quality of the school's educational programmes or the standard of education provided.
- Where applicable, an online-only learning policy outlining how the school will ensure that students participating online receive a standard of education equivalent to that provided for students attending in person.

## Director General's considerations

### Curriculum evaluation and adjustments

Documents outlining the approach to monitoring and evaluating the effectiveness of curriculum delivery and teaching methods provide evidence of the curriculum evaluation process used in the school.

Curriculum evaluation involves teachers and school leaders monitoring, recording and reflecting on the effectiveness of programmes, strategies, resources and teaching practice in improving student learning and adjusting teaching and learning programmes to respond to student needs. It enables the school to answer questions such as:

- What is working and needs to be maintained?
- What is not working and needs to be modified?
- Are there particular contexts and/or group/individual learning needs that are not being addressed?
- To what extent are the support and learning needs of students with disabilities and at-risk of educational failure being met?

*Differentiation of the curriculum:* The school's curriculum planning documentation will include information as to how the curriculum is differentiated to cater for the learning needs of all students.

The *Disability Standards for Education 2005*<sup>25</sup> require schools to make reasonable adjustments to the curriculum so that students with disabilities can participate on an equal basis unless to do so would cause the school unjustifiable hardship.

The Director General will therefore require evidence of an appropriately differentiated curriculum including both delivery and assessment methodologies, developed in consultation with the student and/or their parents/guardians [s.5.2 of the Standards] and provision of the selected reasonable adjustment within a reasonable time after the enrolment of the student [s.3.7 of the Standards].

*Re-engagement strategies:* In recognition of the fact that consistent attendance is a causal factor in student achievement, schools must implement student re-engagement strategies aiming to restore attendance for any student whose absences are impacting on his or her learning.

### Review and analysis of student learning

The school's policy for the review of student learning describes the ongoing process and procedures for the review of student achievement, progress and engagement. It outlines how, when and by whom the analysis of student learning is to be undertaken.

The analysis of student learning should answer two key questions: 'how well are we doing?' and 'how can we enable continuous improvement in teaching and learning that effectively raises students' achievement and engagement?' These judgements are made against individual, school, state and national expectations. Information for the analysis is to be gathered from a range of sources including, but not limited to, standardised test results, moderated school assessments, and staff, parent and student surveys. The analysis is also to incorporate information about attendance, behaviour, motivation and engagement.

The analysis of student learning is to provide the basis for decision making at whole school, year cohort, classroom, group and individual level for improvement planning and changes to teaching and learning

at the classroom and school levels. It must include consideration of the achievement, progress and engagement of individual students and targeted groups of students, e.g. Aboriginal, English as an Additional Language or Dialect, special needs, gifted and talented and at-risk students.

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25 [www.legislation.gov.au/Details/F2005L00767](http://www.legislation.gov.au/Details/F2005L00767)

## Achieving Improvements in student learning

As outlined in Chapter 1, each school's governing body is held accountable for the development and implementation of effective processes to plan for, monitor and achieve improvements in student learning. A school must be working to achieve improvement for every student in order to be judged to be providing a satisfactory standard of education.

The analysis of student learning is to be included in reports to the school's governing body to enable it to carry out its responsibility for ensuring that the improvement processes implemented by the school are effective.

## National Quality Standard Internal audit

The school's National Quality Standard (NQS) internal audit evaluates the extent to which the school's early childhood delivery is meeting or working towards the NQS. In respect of each of the seven Quality Areas, questions are posed and evaluated as follows:

Quality area	Focus questions
1 – educational programme and practice	Are the educators in the early years (Pre-Kindergarten to Year 2) focussed, active and reflective in designing and delivering the learning programme?
2 – children's health and safety	Are healthy eating and physical activity embedded in the programme and do children have a variety of opportunities to be physically active?
3 – physical environment	Do the indoor and outdoor spaces support and enhance high quality programming and engender independence, learning and a high degree of agency for each child?
4 – staffing arrangements	Are the early childhood educators mutually respectful and working as a team?
5 – relationships with children	Do staff maintain respectful and equitable relationships with each child and support each child to build and maintain relationships with each other and with adults?
6 – collaborative partnerships with families and communities	Do staff build respectful and supportive relationships with families, supporting them in their parenting role? Does the school collaborate with other services and organisations in its community?
7 – leadership and service management	Does the school have a positive organisational culture which promotes learning? Does the school have a commitment to continuous improvement and effective administrative systems?

## Capacity to deliver and improve

The capacity of the governing body and senior staff to provide a satisfactory standard of education and to implement the school's curriculum and assessment policies and procedures will be relevant to the Director General's assessment, particularly where the applicant is unable to demonstrate a track record of providing a satisfactory standard of education, such as where the application is for initial registration. Governing bodies are reminded that they are accountable for the quality of the educational programme and for the development and implementation of effective processes to plan for, monitor and achieve improvements in student learning (see Chapter 1).

Confidence in a school's capacity to provide a satisfactory standard of education will be undermined when, for example:

- the analysis of student learning is inadequate;
- the governing body does not receive the information it needs about student learning and the improvement processes implemented to enable it to evaluate their effectiveness;
- the governing body has difficulty understanding the information provided to it due to a lack of training or some other factor;

- the governing body does not support the Principal and other education leaders with sound policy and strategic direction;
- the school's policies and procedures for the provision of a quality education are inadequately disseminated to the teaching staff;
- the Principal and other education leaders do not have the time or other resources to devote to ensuring a quality educational programme is provided in a stimulating and safe learning environment;
- the school is unable to cater effectively for the education and engagement needs of all its students;
- staff professional learning is not linked to the school's policies for achieving improvements in student learning and effectively differentiating the curriculum.

## 4. LEVELS OF CARE

### Overview

Section 160(1)(h) of the School Education Act requires the Director General to consider whether the school will provide satisfactory levels of care for its students. While the registration standards require the development and implementation of a number of policies and other protections for students' safety and wellbeing, this provision is wider. It could enable the Director General to conclude that even if all relevant registration standards are observed a school nevertheless does not provide satisfactory levels of care for its students.

### Evidence related to levels of care

The following may be requested before, during or following the school visit:

- Evidence of risk management relating to the provision of satisfactory levels of care.
- Bullying and harassment policies and procedures and evidence of implementation.
- Catastrophic weather events procedures and evidence of implementation, if any.
- Student health policies and procedures and evidence of implementation.
- Student safety policies and procedures and evidence of implementation.
- Student wellbeing policies and procedures and evidence of implementation.
- Evidence of compliance with the *Disability Standards for Education 2005*<sup>26</sup> for students with disabilities.

### Director General's considerations

Consideration of the levels of care at a school will apply a global test which is school and context specific. Schools are required to consider all elements of their students' safety, wellbeing and care.

The Director General recognises the importance of student safety and wellbeing as a prerequisite for effective learning in schools. It is expected that schools will implement strategies to build a positive school culture that fosters caring and respectful relationships between students and their teachers. Such strategies should aim to create a safe and supportive teaching and learning community that promotes student wellbeing and values diversity. Evidence-informed practices should guide the prevention of and responses to harassment, aggression, violence and bullying. Strategies should also be implemented in relation to cybersafety and cyberbullying as well as students carrying weapons.

Relevant policies and procedures must meet the registration standards where applicable, comply with any applicable State and Commonwealth laws and be effectively disseminated to staff, students and parents. They are to be reviewed following every event affecting their implementation and amended as needed. The school's governing body is expected to undertake comprehensive risk audits in relation to child safety.

Policies and procedures are expected to document, where relevant, how students participating in online-only learning are assured of a safe and healthy learning environment. Policies should be dated and note the date for review. Strategies for ensuring staff and parents (and students, as appropriate) understand the policies are also critical.

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<sup>26</sup> [www.legislation.gov.au/Details/F2005L00767](http://www.legislation.gov.au/Details/F2005L00767)

## **Capacity to protect students and promote their wellbeing**

The capacity of the governing body and senior staff to implement the school's student wellbeing and safety policies and procedures will be relevant to the Director General's assessment, particularly where the applicant is unable to demonstrate a track record of providing satisfactory levels of care, such as where the application is for initial registration. Governing bodies are reminded that they have a non-delegable duty of care for their students (see Chapter 1).

Confidence in a school's capacity to provide satisfactory levels of care will be undermined when, for example:

- the school lacks clear, appropriate and up-to-date policies and procedures to deal with catastrophic weather events, other foreseeable emergencies, student violence, bullying and harassment;
- the school's student health, welfare and safety policies and procedures are not relevant to the circumstances of the school or its students, including during off-site VET, workplace learning and/or community service where relevant;
- student care policies are not reviewed following every incident and revised as indicated;
- the governing body does not receive information about safety breaches and measures implemented to prevent further occurrences;
- the governing body does not support the Principal and other education leaders with sound policy direction and/or is not being accountable for its non-delegable duty of care for the students;
- the school's policies, procedures and practices that aim to ensure students' safety and wellbeing are inadequately disseminated to staff and regular volunteers;
- the school does not regularly undertake systematic and relevant proactive risk management related to student safety and wellbeing risks.

## 5. INTERNATIONAL STUDENTS

### Overview

Schools seeking registration to deliver courses to full fee paying overseas students must be approved and registered under the Western Australian *Education Service Providers (Full Fee Overseas Students) Registration Act 1991* (ESPRA<sup>27</sup>), the *1992 ESPRA Regulations*<sup>28</sup>, the Commonwealth's *Education Services for Overseas Students Act 2000* (ESOS Act<sup>29</sup>) and the *2019 ESOS Regulations*<sup>30</sup>. The regulatory standards for the ESOS Act are embodied in a Commonwealth legislative instrument: the *National Code of Practice for Providers of Education and Training to Overseas Students 2018* (National Code<sup>31</sup>).

### Registration process

A school seeking to offer education services to the primary holder of an international student visa must demonstrate compliance with the requirements of both the ESPRA and the ESOS Act. These regulatory requirements overlap to some degree with the registration standards and other requirements for non-government schools outlined in previous chapters. Where they differ, the primary focus of the regulatory requirements for international students is on consumer protection mechanisms and maintaining the integrity of the Australian visa system.

The Director General, as delegate of the Commonwealth Department of Education, is responsible for assessing whether a school has demonstrated compliance with the international education legislation and requirements.

A non-government school providing education to international students will be required to address the regulatory requirements outlined in the ESPRA, ESOS Act and National Code in its application for initial international education registration or on seeking renewal of that registration. This will usually involve providing additional evidence to demonstrate compliance with particular requirements. It may also include an inspection of the school premises and/or interviews with staff and/or governing body members.

The application will be assessed and considered by the Director General for registration under the ESPRA. The Director General will then make a recommendation to the Commonwealth Department about the registered education provider and its courses. The education provider may commence promoting and delivering courses in Western Australia once approval is granted. The school's business name and the name of its legal entity, which may differ from the name of its governing body, are recorded on CRICOS.

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27 [www.legislation.wa.gov.au/legislation/statutes.nsf/law\\_a240.html](http://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a240.html)

28 [www.legislation.wa.gov.au/legislation/statutes.nsf/law\\_s4402.html](http://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s4402.html)

29 [www.legislation.gov.au/Details/C2018C00210](http://www.legislation.gov.au/Details/C2018C00210)

30 [www.legislation.gov.au/Details/F2019L00571](http://www.legislation.gov.au/Details/F2019L00571)

31 [www.legislation.gov.au/Details/F2017L01182](http://www.legislation.gov.au/Details/F2017L01182)

## Definitions

### **CRICOS**

The Commonwealth Register of Institutions and Courses for Overseas Students<sup>32</sup>.

### ***Full Fee Paying Overseas Student (international student)***

A person holding a subclass 500 student visa or, prior to 1 July 2016, a subclass 571 visa.

### ***Primary and secondary visa holders***

The person who applied for and has been granted a student visa to study in Australia is the primary visa holder. Applications may be made to the Commonwealth Department of Home Affairs to add dependants (e.g. a spouse and/or children) as secondary visa holders to the visa. Secondary visa holders are not regarded as international students and a school does not need to hold CRICOS registration to enrol them. It is a mandatory visa condition (8517) that the primary visa holder must maintain adequate schooling arrangements for any school-age dependants who join them in Australia on a student dependant visa for more than three months.

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<sup>32</sup> <http://cricos.education.gov.au/>



## 6. THE APPLICATION PROCESS

### Overview

The Director General is responsible for three kinds of applications from Independent schools. The Minister has delegated responsibility for initial registration and registration change applications for Catholic system schools to the Catholic Education Commission of Western Australia.

Application types:

1. Initial registration – proposed new school.
2. Renewal of registration – existing registered school.
3. Registration change – change or significant change to an existing registered school.

### Acceptable applications

Applications must conform with the following requirements:

- be made within the timeframe set out in the Act;
- be made in writing on the approved application form; and
- if required (i.e. for initial registration and any registration change defined as significant), attach an advance determination granted by the Minister and a statement that the proposal has not materially changed since the advance determination was granted or an explanation of any changes.

### Supporting evidence – new school or significant registration change

The following will be required to accompany each application for initial registration or application for a registration change involving a change of location for the school or a campus of the school, a new campus or the addition of one or more year levels:

- Copy of the advance determination.
- A statement that there has been no material change to the information provided in relation to the application for advance determination; or, if such a statement cannot be made, a detailed description of the changes or differences between the proposal approved by the Minister and the proposal contained in the application to the Director General.

Section 160(1)(i) of the School Education Act requires the Director General to be satisfied that, whenever an application is to be accompanied by an advance determination granted by the Minister, the proposal submitted has not materially changed since the advance determination was granted.

A material change is a change to the information relevant to, and relied on, in the Minister's consideration of one or more of the matters taken into account (as listed in the *Advance Determination Policy Direction*) when the advance determination was granted by the Minister.

Schools should be cautious in interpreting the term 'material change' without reference to the Director General and, as a consequence, failing to disclose changes. It is preferable that a school should refrain from making the statement where there has been any change at all and enable the Director General to assess whether the change is material or not.

A change to a new school proposal of a kind which would require an application for registration change to be made by an existing school *may not* be a material change if it involves:

- a change of location within close proximity to the approved site;
- addition of a nearby site for administration purposes only;
- reduction of year levels to be offered; or
- a change of governing body name without a change of membership.

The following changes will also not *usually* be considered material in isolation, whether made by an applicant for initial registration or an applicant for registration change:

- a minor slowing of the proposed rate of adding approved year levels (generally no more than two years later than originally proposed);
- a relatively short delay to the proposed commencement date (generally no more than one year later);
- a change of governing body membership;
- a minor change (roughly +/- 10%) to projected student enrolments, whether in proposed year levels or in total.

## Application timeframes

Application type	Submission timeframe
Initial registration	At least six months before the proposed school commencement date [s. 158(2)(a)]
Renewal of registration	At least six months before the current registration expires but no more than 12 months before [s. 159A(3)(a)]
Registration change	At least six months before the proposed change is to be made unless the Director General approves a shorter timeframe [s. 159B(2)(a)]

The only submission timeframe which can be shortened is for registration changes. Reasons which may justify the grant of a shorter timeframe include:

- the change has been caused by an approval or decision of another authority, for example, change to the name of a street, or a suburb;
- the school community through the governing body has been consulted about, and indicated support for, the proposed change, for example, in relation to the name of the school or the name/identity of the governing body;
- the change was foreshadowed and approved as part of the original school planning proposal for advance determination, for example, the year levels to be incrementally introduced by the school in its initial years of operation;
- the school planning proposal is for a significant registration change and was supported by the school community and local schools during consideration of the advance determination application;
- for another reason it is feasible to assess the application within a shorter period.

The Director General may require evidence that the governing body is capable of implementing the proposed change within the shortened timeframe.

## Amending an application

Applications may be amended. However, amendments may affect the decision timeframe available to the Director General under the Act.

Where the amendment is judged to be substantial, the amended application will generally be treated as a new application as far as the decision time limit is concerned. Substantial amendments are those which substantially change the nature of the application or the information supplied about the matters the Director General is required to take into account in determining the application. Substantial amendments include, but are not limited to:

- any change to the year levels of education to be offered;
- any change necessitating a new Financial Viability Assessment, including a change to projected enrolments;
- any change necessitating the scheduling of an additional site visit.

Minor amendments which can be readily accommodated without impacting the application assessment process or which can be dealt with within the six month time limit for decision-making will not affect the decision timeframe.

## Decision timeframes

The Director General will not commence the assessment of an application until it is complete in substance. Once a complete application is received, the following decision timeframes come into effect.

Application type	Decision timeframe
Initial registration	Up to six months from the date of application [s. 161B(2)]
Renewal of registration	No decision deadline [s. 161B(2)]. If renewal is not finalised by the registration expiry date, registration continues provided the application was submitted in time [s. 163(3)]
Registration change	Up to six months from the date of application [s. 161B(2)]

## Further information requests

The Director General may request further information in support of any application [s.158(4), s.159A(5), s.159B(5)]. The request must be in writing and relevant to the application. The Director General will stipulate a timeframe within which the further information is to be provided. An applicant may request an extension of time but must do so before the expiry of the original timeframe.

Where the requested information is not provided within the time specified or subsequently agreed, the Director General may advise the school that consideration of the application, and the applicable timeframe, will be suspended until the requested information is forthcoming. Alternatively, the Director General may refuse to consider the application further [see s.158(5), s.159A(6), s.159B(6)].

## Site visits

The Director General will usually request that one or more school reviewers visit the school or proposed site and meet with the applicant, governing body members, staff and students. For initial registration and registration change site visits, every effort will be made to find a mutually convenient date. However, schools are advised that scheduling considerations may limit the Department's capacity to accommodate all school requests, particularly with respect to registration renewal site visits.

## Decision-making where standards and requirements are not met

The Director General has four options in cases where the Director General is not satisfied that the applicant, governing body or school will observe the registration standards and meet the other requirements:

- give a quality improvement notice [s.165A];
- impose or change a condition on registration [s.165];
- give a direction [s.166];
- refuse the application [s.160(4)(b), s.161A(2)(b)].

**Important note:** where a direction is given, the school is prohibited from enrolling any new students until the direction is withdrawn [s.167A].

When giving a quality improvement notice, imposing a condition or giving a direction, the Director General will usually require compliance by a stipulated date. In setting a deadline, the Director General will take the following factors into account:

- the type of limitation;
- the length of time the governing body has been aware of the Director General's concern;
- the seriousness and imminence of the risk, if any, to the education and care of students;
- the capacity of the Department of Education to monitor compliance;
- the proximity of current registration expiry;

- the proximity of school holiday periods; and
- any other factor relevant to the particular circumstances.

If premises or facilities pose an immediate risk to student safety, a condition will generally require that they not be used for educational purposes until rectified.

### **Decision-making on Initial registration and registration change applications**

The Director General will not usually be in a position to be satisfied about all registration standards and other requirements before a proposed new school commences operating or an existing school implements certain registration changes. Among the matters which must be evaluated in operation are:

- suitability of staff;
- assessment and reporting of student performance;
- implementation of policies and procedures;
- keeping of student and other records.

The inability to evaluate these matters will not prevent the Director General from registering the school or approving the change if satisfied, based on the available information and the capacity of the school's leadership, that these matters will be satisfactory once the school is operational.

If the Director General decides to approve an application for initial registration or significant registration change, a condition (or conditions) may be imposed about any matter where the school is unable to provide sufficient information prior to commencement (such as the safety of completed premises, staffing, etc).

### **Refusal of application**

The Director General may refuse an application if of the opinion that approving the school poses a significant risk to the education, care and/or safety of students at the school. Examples of significant risks are:

- the proposed registration change is likely to overextend the school's resources putting at risk its financial viability and hence the sustainability of its educational provision;
- the plans submitted do not demonstrate that the premises and facilities will be safe and sufficient for the year levels of education to be offered and/or the number of students to be enrolled;
- the school has failed to comply with limitations requiring safer practices to be implemented.

### **Effect of refusal**

When an application for initial registration is refused, the applicant may submit a new application while the Minister's advance determination remains in force.

When an application for renewal of registration is refused, a new application may be made. If that new application is made within the timeframe for renewal applications, registration will continue until the application is decided. If not, the school's registration will expire when its current registration period ends unless the Director General has been able to decide the application before that date. A school without current registration is not permitted to operate.

When an application for registration change is refused, a new application may be made. If the change is a significant change, the Minister's advance determination must still be in force.

### **Review of decisions**

A decision by the Director General to impose a condition, give a direction or refuse an application is 'reviewable'. This means that the applicant may apply to the Minister to review the decision. An application for review must be made in writing on the approved form within 20 calendar days after the applicant receives the Director General's notice of decision [s.168].

## **Duration of registration**

Registration or renewal of registration may be granted for between one and five years [s.163(1)]. The Director General's decision about the duration of registration is not reviewable.

Approval or rejection of a registration change application will not usually affect the school's registration period.

## **Registration certificate**

When any change is made to the information which must be on a registration certificate, a new certificate will be issued [s.162(2); this information is listed in s.161(1) and (2)]:

- name of the school;
- school address and location of any other school premises;
- year levels;
- curriculum or curriculums;
- governing body name;
- registration start and end dates;
- any condition;
- any direction.

Quality improvement notices are not recorded on the registration certificate.

A school is required to surrender its old certificate once it has expired or the replacement comes into effect by returning the original to the Department [s.163A].

## ► 7. OTHER GOVERNING BODY OBLIGATIONS

### Overview

The Director General is able to monitor schools' continuous compliance with the registration standards and other requirements by obtaining relevant information. This chapter summarises these requirements.

### New governing body members

Governing bodies must to notify the Director General no later than 30 days after any change to their membership – whether that change involves members leaving or members being added or both [s.156B(1)(b)]. This requirement applies only to management committee members or directors and not to all association or company members. Failure to notify is an offence subject to a maximum fine of \$5,000. Governing bodies are requested to use the purpose-specific notice form on the [Department of Education website](#)<sup>33</sup>. The notice is to be accompanied by a list of the names of the new members and of any persons who are no longer members [s.165B(2)(b)] together with a statutory declaration from the Chair as to the fitness and propriety of the new members.

### Constitutional changes

Any change to a governing body's constitution, including its entire replacement, must also be notified to the Director General no later than 30 days after the change is made by a general meeting [s.156B(1)(a)]. Failure to notify is an offence subject to a maximum fine of \$5,000. Governing bodies are requested to use the purpose-specific notice form on the [Department of Education website](#)<sup>34</sup>. The notice must be accompanied by a copy of the new or amended constitution [s.156B(2)(a)].

### Requirement to provide information

The Director General or the Minister may issue a notice to a governing body requiring:

- statistical, educational and financial information about the school; and/or
- any other information about the school relating to the registration standards or other requirements [s.156C(1)].

A period within which the information must be provided will be stipulated in the notice. It must be at least 14 days from the date the governing body receives the notice [s.156C(2)]. An extension of time may be requested before the stipulated time limit has expired.

Failure to comply with such a notice is an offence subject to a maximum fine of \$5,000.

### Cooperation with an inspection

The Director General may authorise an inspection of a school either with at least seven days' notice [s.176] or with no notice [s.177]. It is an offence for any person to hinder or obstruct an authorised person who is carrying out or attempting to carry out an inspection [s.179]. Hindering or obstructing an officer is an offence subject to a maximum fine of \$2,000.

Further, an authorised person can require any person to give assistance reasonably necessary for the exercise of his or her powers during an inspection [s.176(3)(c), s.177(3)(d)].

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<sup>33</sup> [www.education.wa.edu.au/non-government-schools](http://www.education.wa.edu.au/non-government-schools)

<sup>34</sup> [www.education.wa.edu.au/non-government-schools](http://www.education.wa.edu.au/non-government-schools)

# APPENDIX

## Registration Standards for Non-Government Schools

Determined by the Minister for Education and Training  
in accordance with section 159 of the *School Education Act 1999*

The following standards and definitions take effect on and from 1 January 2020.  
Underlined terms are defined.

### STANDARD 1: CURRICULUM

- 1.1** Curriculum for students in the final year of their early education period, known as Pre-Kindergarten, and in their pre-compulsory education period, known as Kindergarten, is consistent with the principles, practices and learning outcomes of *Belonging, Being and Becoming – The Early Years Learning Framework*.
- 1.2** Curriculum for students in the first to eleventh years of their compulsory education period, known as Pre-Primary to Year 10 inclusive, is:
- (a) approved, accredited or recognised by the School Curriculum and Standards Authority; and/or
  - (b) a programme of study meeting the needs of each student delivered through an Individual Education Plan.
- 1.3** Curriculum for students in the final two years of their compulsory education period or above as permitted by law, known as Years 11 and 12:
- (a) enables all students to achieve a Western Australian Certificate of Education (WACE), Cambridge International A Levels, International Baccalaureate Diploma or another qualification approved by the Director General; and/or
  - (b) provides a programme of study meeting the needs of each student delivered through an Individual Education Plan.

### STANDARD 2: STAFF TO STUDENT RATIOS

- 2.1** In classes for students in their compulsory education period, staff to student ratios are sufficient to provide a satisfactory standard of education and care to each of the students enrolled or to be enrolled.
- 2.2** In classes for or including students in the final year of their early education period and/or in their pre-compulsory education period, unless the Director General has provided prior approval and subject to standard 4.2(a):
- (a) the staff to student ratio is one staff member, working directly with the students, to a maximum of 10 students. Staff may take breaks of up to 30 minutes per day 'off the floor'. Throughout the break the staff must remain on the school premises and be immediately available to assist if required. In planning staff breaks, adequate supervision must be maintained at all times and the overarching consideration must be the needs of the students; and
  - (b) at least one early childhood teacher is in attendance for every 30 students or fewer at all times that students are present.



### STANDARD 3: DAYS AND HOURS OF INSTRUCTION

- 3.1** Unless the Director General has provided prior approval and subject to standard 3.2, the school provides, for each year level from Kindergarten to and including Year 10, time for instruction which totals at least that prescribed for government schools.
- 3.2** For students in the first year of their compulsory education period, known as Pre-Primary, who are in receipt of an alternative curriculum, the hours of instruction are as directed by the Principal, but must be at least 15 hours per week.
- 3.3** For students in the final year of their early education period, known as Pre-Kindergarten, the hours of instruction in each school week do not exceed 25 hours and 50 minutes.
- 3.4** For students in the final two years of their compulsory education period, known as Years 11 and 12, the hours of instruction are as required by the School Curriculum and Standards Authority or other qualification-awarding authority.

### STANDARD 4: STAFF

- 4.1** The school complies with the requirements of:
- (a) the *Teacher Registration Act 2012* and *Teacher Registration (General) Regulations 2012*; and
  - (b) the *Working with Children (Criminal Record Checking) Act 2004* and *Working with Children (Criminal Record Checking) Regulations 2005*.
- 4.2** In each class for or including students in the final year of their early education period and/or in their pre-compulsory education period, unless the Director General has provided prior approval:
- (a) each teacher is an early childhood teacher. In the event of the absence of an early childhood teacher:
    - (i) if the absence totals no more than 60 days in a school year or is due to the teacher's resignation, his or her place may be filled by a primary-qualified teacher for the remainder of the school year; and
    - (ii) in all other cases, the teacher's place must be filled by an early childhood teacher;
  - (b) at least 50% of the staff required to meet the staff to student ratio hold, or are actively working towards, at least an approved Diploma level education and care qualification (the teacher or teachers can be included in this 50%) and all other staff required to meet the ratio hold, or are actively working towards, at least an approved Certificate III level education and care qualification; and
  - (c) there are staff on the school premises, at all times these students are present, with the following:
    - (i) a current approved first aid qualification;
    - (ii) current approved anaphylaxis management training; and
    - (iii) current approved emergency asthma management training.
- 4.3** In each class for or including students in the final year of their early education period and/or in their pre-compulsory education period a contemporaneous record is kept of:
- (a) the early childhood teacher or substitute teacher who was actually present at any time; and
  - (b) each other person or people working directly with the students at any time.
- 4.4** The school provides all new staff, including new boarding staff if applicable, as soon as practicable following their appointment, an induction covering at least:
- (a) the Code of Conduct, including their obligations to report objectively observable behaviour which is not permitted by the Code of Conduct;
  - (b) the school's policies, procedures and practices that aim to ensure students' safety and wellbeing at school and during school-related activities; and
  - (c) the law with respect to mandatory reporting of child sexual abuse.
- 4.5** The school ensures all staff participate in regular performance management procedures and professional learning linked, where appropriate, to the Professional Standards for Teachers in Western Australia and to the school's processes for improving student learning.



## STANDARD 5: PREMISES AND FACILITIES

- 5.1** The premises and facilities used by the school are fit for purpose, hygienic, safe, well-maintained, sufficient and appropriate for the provision of a satisfactory standard of education and satisfactory levels of care for all students and for the number of students enrolled.
- 5.2** Unless the Director General has provided prior approval, premises built or commissioned since August 2012 for the delivery of educational programmes to students in the final year of their early education period and/or their pre-compulsory education period provide 3.25 square metres of unencumbered indoor space for each student and at least 7 square metres of unencumbered outdoor space for each student.
- 5.3** Where applicable, the premises used by boarding students are appropriate, safe, well-maintained and sufficient for the number accommodated.
- 5.4** The premises, including boarding premises where applicable, are so arranged, and their use so organised, as to effectively deter inappropriate interactions between students and staff, and between students, and to facilitate the detection of any such interactions which may occur.
- 5.5** The school provides such ancillary support as is necessary to ensure equity of access to educational programmes for all students enrolled.
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## STANDARD 6: ENROLMENT AND ATTENDANCE PROCEDURES

- 6.1** Student enrolment and attendance procedures and practices comply with all legal requirements.
- 6.2** A CARE school documents and retains on record the basis for each decision that a student enrolled was or is at educational risk.
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## STANDARD 7: CRITICAL AND EMERGENCY INCIDENTS

- 7.1** The school has and implements a critical and emergency incidents policy and procedures which:
- (a) include all reportable incidents as well as other critical and emergency incidents;
  - (b) enable and require incidents to be managed in such a way as to minimise trauma and distress to students and staff and damage to property and ensure the educational programme is maintained or resumed, while giving highest priority to the best interests of the student or students affected;
  - (c) require all incidents to be reported and documented, including as required by standard 7.2 when applicable; and
  - (d) enable and require the Principal to notify the governing body of all incidents.
- 7.2** The governing body ensures the Director General is notified of every reportable incident as soon as practicable, and in any event within 48 hours of the incident, using the form published by the Director General for this purpose.

## STANDARD 8: BOARDING

- 8.1** Supervisory staff employed in school boarding accommodation are competent, fit and proper persons, qualified to manage the care, welfare and needs of all boarding students.
- 8.2** The school maintains open and effective communication with the parents and guardians of boarders.
- 8.3** The boarders receive a well-balanced and nutritious diet.
- 8.4** The boarders are consulted on all matters affecting their accommodation, recreation, support services, code of conduct, safety and wellbeing.

## STANDARD 9: COMPLAINTS

- 9.1** The school has and implements a complaint handling system which satisfies each of the key action areas of Principles 6 and 9 of the National Child Safe Organisation Principles.
- 9.2** The school's complaint handling system conforms to the rules of procedural fairness and includes a system for review.
- 9.3** The school publishes information to the school community about the role of the Director General in monitoring the school's compliance with these standards including but not limited to standards 9.1 and 9.2, and her authority to respond to instances of non-compliance.

## STANDARD 10: PREVENTING AND RESPONDING TO CHILD ABUSE

- 10.1** The school implements the National Child Safe Organisation Principles.
- 10.2** The school regularly reviews its policies, procedures and practices that aim to ensure students' safety and wellbeing at school and during school-related activities in consultation with its students.
- 10.3** The school cooperates in the Multi-Agency Protocol for Education Options for Young People Charged with Harmful Sexual Behaviours and implements a risk assessment and management plan for any such young person enrolled at the school.
- 10.4** The school implements a Code of Conduct for all staff, governing body members, practicum students and volunteers, and boarding staff if relevant, which:
- (a) is consistent with the Example Code of Conduct and the National Child Safe Organisation Principles;
  - (b) requires them to report objectively observable behaviour which breaches or is suspected of breaching the Code of Conduct, other than those subject to mandatory reporting obligations, to the Principal, a designated senior staff member or the chair of the school's governing body; and
  - (c) assures their protection from victimisation or other adverse consequences if they make such reports in good faith.
- 10.5** All staff, governing body members and regular volunteers participate in learning opportunities at least annually about the law with respect to mandatory reporting of child sexual abuse and the school's policies, procedures and practices that aim to ensure students' safety and wellbeing at school and during school-related activities, including the creation and maintenance of child-safe physical and online environments.
- 10.6** All students receive a protective behaviours and sexual abuse prevention education which:
- (a) is developed by experts in child abuse prevention;
  - (b) is age and developmental-stage appropriate;
  - (c) is culturally-appropriate;
  - (d) is integrated into the curriculum of the school and makes relevant subject-matter links;
  - (e) includes e-safety education; and
  - (f) builds practical self-protective skills and strategies.
- 10.7** The school, in consultation with its students, develops and regularly reviews a student code of conduct and guidelines on how to comply which:
- (a) sets out minimum standards of conduct;
  - (b) prohibits bullying, harassment and other forms of peer-to-peer abuse; and
  - (c) requires respect for the privacy and human dignity of other students, and boarders where relevant.
- 10.8** Parents and guardians receive information about the protective behaviours curriculum, the Code of Conduct, the student code of conduct and when, how and whom to tell when they have concerns about grooming, child abuse or other behaviour which is not permitted by either code.

**10.9** The school's records of complaints, allegations and findings related to grooming and child abuse, whether involving former or current staff or students:

- (a) contain as much detail as possible;
- (b) are stored securely; and
- (c) are not destroyed without the approval of the Director General or, where their retention becomes impracticable or unduly onerous, are forwarded to the Director General with her permission for retention in accordance with the *State Records Act 2000*.

**10.10** The school responds appropriately to complaints and allegations of grooming, child abuse and breaches of the Code of Conduct or student code of conduct in the best interests of students and in accordance with policies and procedures which at least require that:

- (a) the complainant is informed about the services, including advocacy and support services, which may be available; and
- (b) the matter is reported promptly to the responsible government authorities and their direction is sought and complied with as to when, what and by whom information related to the matter and its investigation may be given to the person against whom the complaint or allegation is made, the complainant and his or her parents/guardian, other affected students and their parents and guardians, and the wider school community.

## **STANDARD 11: FINANCIAL RESOURCES**

**11.1** The school is financially viable.

**11.2** The school's financial resources are sufficient to enable it to deliver its educational programmes for the number of students enrolled in the year levels for which the school is or seeks to be registered and to provide the necessary ancillary support.

## **STANDARD 12: MANAGEMENT OF STUDENTS' BEHAVIOUR**

**12.1** All students receive positive guidance and encouragement towards acceptable behaviour and are given opportunities to interact and develop respectful and positive relationships with each other and with staff members and volunteers.

**12.2** The school explicitly forbids the use of any form of child abuse, corporal punishment or other degrading punishment as defined and provides clear guidance to all members of the school community about what forms of behaviour management, discipline or punishment are permitted.

**12.3** The administration of permitted forms of behaviour management, discipline or punishment conforms to the rules of procedural fairness and non-discrimination.

## **STANDARD 13: MINIMUM AGE OF ENROLMENT**

**13.1** Unless the Director General provides prior approval, the school does not permit any child to be enrolled at the school before the final year of their early education period and the child has turned 3 years of age.

**13.2** A CARE school does not permit any student to be enrolled before the eighth year of their compulsory education period.

## **STANDARD 14: DELIVERY OF THE CURRICULUM**

**14.1** The provision of educational programmes exclusively by means of online-only learning is restricted to students who are:

- (a) geographically isolated;
- (b) temporarily living or travelling interstate or overseas;
- (c) participating in elite performance in sport or the arts; or
- (d) unable to attend at a school due to:
  - (i) diagnosed physical or mental illness or disability;
  - (ii) bail conditions; or
  - (iii) another special circumstance acceptable to the Director General.

## STANDARD 15: NUMBERS OF CHILDREN ENROLLED

**15.1** The total number of students enrolled in a CARE school does not exceed the number whose needs and safety can be effectively catered for and protected within the financial and other resources of the school.

### DEFINITIONS

#### Actively working towards

For the purpose of standard 4.2, a staff member is actively working towards a qualification if he or she is:

- (a) currently enrolled;
- (b) making satisfactory progress; and
- (c) meeting the requirements for maintaining enrolment.

In addition, actively working towards a Diploma requires that the staff member must –

- (a) already hold an approved Certificate III;
- (b) have completed the requisite number of units in the Diploma course for award of a Certificate III; or
- (c) have completed at least 30% of an early childhood teaching qualification.

#### Advocacy and support services

For the purpose of standard 10.10, advocacy and support services are those which act alongside, or on behalf of, victims and survivors of grooming or child abuse, to support their rights and interests while providing tangible and practical support.

#### Alternative curriculum

For the purpose of standard 3.2, an alternative curriculum is one, other than the Western Australian Curriculum, which is recognised by the School Curriculum and Standards Authority for delivery and assessment in a named school. Recognition is in accordance with section 9(1)(e) of the *School Curriculum and Standards Authority Act 1997*.

#### Ancillary support

For the purpose of standards 5.5 and 11.2, ancillary support is that which ensures equity of access to educational programmes for all enrolled students. The nature of this support will be determined by the needs of individual students. It may include, for example:

- extension programs for Gifted and Talented students;
- assistive technologies;
- counselling.

#### Approved

For the purpose of standard 4.2 and associated definitions, an approved qualification or approved training means approved by the Australian Children's Education and Care Quality Authority.

#### CARE school

A CARE school is one established and registered solely for the education of students at educational risk.

#### Child abuse

Four forms of child abuse are covered by WA law and defined by the Department of Communities.

- 1) Physical abuse occurs when a child is severely and/or persistently hurt or injured by an adult or caregiver.
- 2) Sexual abuse occurs when a child is exposed to, or involved in, sexual activity that is inappropriate to the child's age and developmental level, and includes sexual behaviour in circumstances where:
  - (a) the child is the subject of bribery, coercion, a threat, exploitation or violence;
  - (b) the child has less power than another person involved in the behaviour; or
  - (c) there is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.

- 3) Emotional abuse includes:
  - (a) psychological abuse; and
  - (b) being exposed to an act of family and domestic violence.
- 4) Neglect is when children do not receive adequate food or shelter, medical treatment, supervision, care or nurturance to such an extent that their development is damaged or they are injured. Neglect may be acute, episodic or chronic.

### **Complainant**

For the purpose of standard 10.10, the complainant is the student or former student against whom the alleged grooming or child abuse is claimed to have been committed.

### **Complaint**

An expression of dissatisfaction made to the school about its services, decisions or actions, or those of its staff, or about the complaint management process itself.

### **Compulsory education period**

A student's compulsory education period is from the beginning of the year in which the student reaches the age of 5 years and 6 months until either the end of the year in which he or she reaches the age of 17 years and 6 months or the day on which he or she reaches the age of 18 years, whichever happens first (*School Education Act 1999*, section 6).

### **Corporal punishment**

Any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light; typically involving hitting the child with the hand or with an implement; can also include, for example, forcing the child to stay in an uncomfortable position. It does not include the use of reasonable physical restraint to protect the child or others from harm (UN Committee on the Rights of the Child, General Comment No. 8 (2006), paragraphs 11 and 15: CRC/C/GC/8, 2 March 2007).

### **Degrading punishment**

Any punishment which is incompatible with respect for human dignity, including corporal punishment and non-physical punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child (UN Committee on the Rights of the Child, General Comment No. 8 (2006), paragraphs 11 and 16: CRC/C/GC/8, 2 March 2007).

### **Director General**

The Director General is the chief executive officer appointed in accordance with section 151 of the *School Education Act 1999*; currently the Director General, Department of Education.

### **Early childhood teaching qualification**

The qualification must be both —

- (a) approved as an early childhood teaching qualification by the Australian Children's Education and Care Quality Authority (ACECQA), either as listed on its website or on the basis of an individual assessment; and
- (b) accepted by the Teacher Registration Board of Western Australia (TRBWA) for registration in any category in WA.

### **Early childhood teacher**

An early childhood teacher either holds an early childhood teaching qualification or has, in the opinion of the Principal, sufficient experience as an early childhood teacher.

## **Educational risk**

For the purpose of standard 6.2, a student is at educational risk if he or she is of compulsory school age but unable, for one or more reasons such as the following, to participate in mainstream schooling:

- (a) is disengaged from school or vocational education and training as evidenced by persistent non-attendance or a failure or refusal to enrol;
- (b) experiences learning disadvantages or difficulties which cannot be effectively catered for at a reasonably local mainstream school;
- (c) is affected by life risk factors such as domestic violence, abuse, homelessness, transience, addiction, chronic ill-health or pregnancy;
- (d) is subject to a Children's Court order;
- (e) is the subject of a Responsible Parenting Agreement covering school attendance; or
- (f) is a persistent or serious juvenile offender.

## **Emotional abuse**

Emotional abuse occurs when an adult harms a child's development by repeatedly treating and speaking to a child in ways that damage the child's ability to feel and express their feelings.

## **Example Code of Conduct**

The Example Child Safe Code of Conduct has been published by the Australian Human Rights Commission and is consistent with the National Child Safe Organisation Principles. Refer to <https://childsafe.humanrights.gov.au/>

## **First year of their compulsory education period**

The first year of a student's compulsory education period is from the beginning of the year in which he or she reaches the age of 5 years and 6 months until the end of that year (*School Education Act 1999*, section 6).

## **Final year of their early education period**

The final year of a child's early education period is from the beginning of the year in which the child reaches the age of 3 years and 6 months until the end of that year. During this period the child may or may not be enrolled in a school (*School Education Act 1999*, section 4).

## **Geographically Isolated**

For the purpose of standard 14.1, a student is geographically isolated so as to be eligible for enrolment in online-only learning if the student is unable to attend a school that provides the year level of education or the learning support or extension programmes the student requires, or that meets the student's cultural and/or spiritual needs, because of distance or the unreasonable travel time which would be involved.

## **Grooming**

The use of a variety of manipulative and controlling techniques with a vulnerable subject in order to establish trust or normalise sexually harmful behaviour with the overall aim of facilitating exploitation and/or avoiding exposure.

## **Individual Education Plan**

An Individual Education Plan sets out a student's individual learning goals, support needs and services to be provided which:

- (a) is developed in consultation with the student and his or her parents/guardians;
- (b) contains sufficient information, milestones and detail to guide all staff working with the student;
- (c) may have an explicit focus on literacy and numeracy skills; social skills; emotional and behavioural regulation skills; health and wellbeing skills and/or physical skills;
- (d) records regular assessment and evaluation of student progress and achievement of identified outcomes and targets;
- (e) stipulates a commencement date, monitoring dates and review dates; and
- (f) is reviewed and revised at least twice each school year.



## **Multi-Agency Protocol for Education Options for Young People Charged with Harmful Sexual Behaviours**

The Multi-Agency Protocol, developed by the Department of Education for all education sectors in Western Australia, describes the process by which information about young people charged with harmful sexual behaviours is shared and managed by governing bodies and schools in accordance with sections 28A-C of the *Children and Community Services Act 2004*.

### **National Child Safe Organisation Principles**

The National Principles for Child Safe Organisations incorporate the ten standards recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse in December 2017 but cover all forms of child abuse. They were developed by the Australian Human Rights Commission and endorsed by all members of the Council of Australian Governments (COAG) in February 2019. Refer to <https://childsafe.humanrights.gov.au/>

### **Online-only learning**

For the purpose of standard 14.1, online-only learning is the online provision of educational programmes where in-person contact between student and teacher and on-site attendance at a school either does not occur or is extremely limited.

### **Pre-compulsory education period**

A child's pre-compulsory education period is from the beginning of the year in which he or she reaches the age of 4 years and 6 months until the end of that year (*School Education Act 1999*, section 5). During this period, a child may or may not be enrolled in a school.

### **Psychological abuse**

Repeatedly treating and speaking to a child in ways that damage the child's perceptions, memory, self-esteem, moral development and intelligence. It is a form of emotional abuse.

### **Reportable Incidents**

For the purpose of standard 7, the following are reportable incidents:

- (1) The death of a student or staff member at school or during a school-related activity, or following an incident at school or during school-related activity.
- (2) An incident involving injury, illness or trauma to a student or staff member at school or during a school-related activity requiring ambulance or hospital attendance.
- (3) An incident requiring a police or other emergency services response when a student appears to have been taken or removed, or goes missing and cannot be accounted for, from the school or from a school-related activity without proper authority.
- (4) An incident requiring the school to be locked down or to evacuate staff and students, or reduce the number of students or staff attending, or to close for any duration for health or safety reasons.
- (5) The receipt of a complaint or allegation of child abuse, including but not limited to sexual abuse, committed against a student –
  - (a) by a staff member or another student; or
  - (b) by another person on the school premises or during a school-related activity; whether the abuse is alleged to have occurred recently or in the past.
- (6) Issuing a formal warning to or ceasing the employment of a staff member for a breach of the Code of Conduct suspected to have involved grooming behaviour.

### **Rules of procedural fairness**

These rules require:

- (a) a hearing appropriate to the circumstances;
- (b) lack of bias;
- (c) evidence to support a decision; and
- (d) inquiry into matters in dispute.

**Time for Instruction**

For the purpose of standard 3.1, time for instruction is calculated by multiplying the following minimum weekly hours by the total number of days on which government schools are required to open for students in the course of the year:

- (a) for Kindergarten students, at least 11 hours; and
- (b) for students from Pre-Primary to and including Year 10, at least 25 hours and 50 minutes.

**Unencumbered**

For the purpose of standard 5.2, unencumbered space refers to the space suitable for use by Pre-Kindergarten and/or Kindergarten students and in fact available for their use.

**Working directly**

For the purpose of standards 2.2 and 4.3, a person is working directly with the students in Pre-Kindergarten and/or Kindergarten when he or she is:

- (a) physically present with the students; and
- (b) directly engaged in providing education and care to them.



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