



Department of  
Education

**Shaping the future**

# Regulatory Statement

## Non-Government School Regulation

## Context

This document describes the regulation of non-government schools in Western Australia. It provides non-government schools, key stakeholders and consumers with information about our work and the key principles which we strive to uphold.

## Our role and scope

The Non-Government School Regulation (NGSR) Directorate of the Department of Education is Western Australia's regulatory authority for Independent and Catholic schools. NGSR administers key clauses of Part 4 of the *School Education Act 1999* (the Act) and makes recommendations to the Director General of the Department (the registration decision maker) about school registration and compliance.

All schools must comply with 15 standards made by the Minister for Education and the "other requirements" of Part 4 of the Act.

The Independent school sector comprises faith-based schools, Montessori schools, Steiner schools, specialist schools, Curriculum and Re-Engagement in Education (CARE) schools, four non-diocesan Catholic schools (not members of the Catholic Education System Agreement) and Community Based Courses endorsed by the Minister for Education.

In the context of Part 4 of the Act, the Catholic "system" means Catholic diocesan and non-diocesan schools that are members of a recognised system under section 169 of the Act.

## Our vision

A respected, quality regulatory authority that places the safety and education of children at the centre of all we do, acts with fairness and integrity and acknowledges different approaches to learning.

## Our powers

Part 4 of the Act provides for the Director General of the Department to:

- register and renew registration.
- to approve changes to a school's registration (such as to establish a new campus or add year levels of education).
- to inspect with or without notice.
- to require information to be provided.
- to impose "limitations" on registration in the form of quality improvement notices, conditions and directions.
- cancel registration or refuse to register.

Part 4 of the Act also provides for the Minister for Education to make advance determinations about proposals to establish new Non-Government Schools or make significant registration changes to existing ones.

Where the Minister recognises a school system under section 169, the Minister may enter into a System Agreement with the System Governing Body. In these circumstances, the System Governing Body must ensure, through formal mechanisms, that schools within the system comply with the registration standards and other requirements.

At present, the only recognised system in Western Australia under section 169 is Catholic Education Western Australia (CEWA). Although section 169 establishes CEWA as the System Governing Body responsible for ensuring Catholic school compliance, the Act does not prevent the Director General from applying certain regulatory compliance powers, as described above, to Catholic schools. Generally, however, it is for CEWA to ensure that schools comply and to direct rectification of non-compliance if identified.

## Our purpose

The best interests of children are the foundation of our regulatory program and approach. We regulate because consumers of school education (i.e. parents, students, the school community and the general community) should expect that certain standards are maintained for the care and education of all students in all schools.

Where non-government schools fail to comply with these standards, consumers should also expect that schools can be directed to rectify non-compliance.

Although the essential purpose of the legislation is school compliance, NGSR also considers a school's commitment to improvement by assessing a governing body's role in setting a school's strategic direction and planning, monitoring and achieving improvement in student learning.

NGSR's approach is to encourage and guide schools, through directorate officer level communications, towards regulatory compliance.

Regulatory enforcement powers are used in instances where a directorate level approach has not been entirely effective or where a particular non-compliance presents immediate risks to student safety, wellbeing and the standard of education.

This blended voluntary/enforcement regulatory approach seeks to empower school governing bodies to self-identify and rectify potential non-compliances to mitigate risks to students.

## The standards and NGSR role

The Minister for Education has made 15 standards for, amongst others: curriculum; premises and facilities; financial resources; staff; child abuse prevention; complaints handling; enrolment and attendance; and management of student behaviour.

These standards generally align with endorsed, system wide policies and procedures for public schools, though there are some standards that are unique to non-government schools. Additionally, all non-government schools must comply with the "other requirements" of Part 4 of the Act relating to proper board governance, standard of education and levels of care.

Information about the application of the standards and requirements is published in the [Guide to the Registration Standards and Other Requirements for Non-Government Schools](#) available on the Department of Education website.

The Director General may register an independent school for between 1-5 years and the length of registration is generally based on the compliance history of the school and NGSR’s risk assessment. Schools must apply for renewal of registration through a formal mechanism.

NGSR may also conduct informal visits to schools during the registration period. These visits assist in professional relationship building with schools, obtaining feedback on NGSR regulatory processes and to identify and discuss emerging issues and trends.

Part 4 also provides a formal mechanism for schools seeking to change their registration profile by establishing new campuses or adding to their scope of education provision.

On an ongoing basis, NGSR monitors non-government schools in a variety of ways including through the receipt of reportable incidents and complaints. Such information may assist NGSR in establishing lines of enquiry with a school about ongoing compliance.

NGSR does not have a role in resolving individual complaints, however complaints may be indicative of the need for improvements both at the individual school level or governing body level, and in the case of CEWA, at the system level.

Under the System Agreement between the Minister and CEWA, CEWA assumes responsibility for regulatory compliance of schools within the system. CEWA undertakes compliance reviews of schools within the system and NGSR may participate as an observer on these reviews. Additionally, NGSR, on behalf of the Minister, may periodically review CEWA’s compliance with the System Agreement, including the performance of school review processes.

NGSR regularly engages with key stakeholders and key government agencies such as the Association of Independent Schools Western Australia, CEWA, the School Curriculum and Standards Authority, the Australian Department of Education and regulatory counterparts in other jurisdictions. This engagement assists in identifying emerging issues and trends and may be used to further refine or modify the registration standards.

**Principles under which we operate**

NGSR operates under principles drawn from the *OECD Best Practice Principles for Regulatory Enforcement and Inspections*. We are committed to adhering to these principles, acting with integrity and fairness but always ensuring that the best interests of children is the paramount consideration.

Principle	We are committed to:
<b>Evidence Based enforcement</b>	Acting within our powers and only taking compliance action based on evidence that a school is not complying with the registration standards and other requirements of Part 4 of the Act.
<b>Risk focus and proportionality</b>	Ensuring that the period of registration, the application of limitations and the frequency of inspections will be guided by the level of risk presented and the compliance histories of schools. The highest priority will be given to instances where there is risk of imminent harm to students.

<b>Transparency</b>	Providing clear and timely information to schools, stakeholders and consumers about the application of the standards and requirements, our role, and our regulatory processes.
<b>Procedural Fairness</b>	Acting within the rules of procedural fairness ensuring that schools have a right to be heard and that recommendations and decisions are free of conflicts of interest and bias.
<b>Responsive Regulation</b>	Understanding the individual differences of schools and where possible, tailoring and modulating our approach based on a school's individual circumstances.
<b>Professional Relationships with Stakeholders</b>	Seeking the information and advice of key stakeholders in the development and application of registration standards and our regulatory approach. Implementing measures to prevent undue influence, always ensuring that the best interests of children is at the heart of what we do.
<b>Reducing regulatory burden</b>	Exploring ways to increase efficiency of process while ensuring that the integrity of the process is maintained.

## Summary of the key elements of our approach

Element	How we implement each element
<b>Registration</b>	<ul style="list-style-type: none"> <li>• NGSR provides recommendations to the Director General regarding registration and re-registration of schools and assesses registration change applications based on a formal application process and subject to a school review process which may involve all, or a combination of, desktop evaluation, video conferencing, negotiated school review visit or inspection (with or without notice).</li> <li>• We adopt a risk-based approach, seeking to prioritise and focus our efforts where risks to the education and safety of children are identified.</li> </ul>
<b>Non-Compliance Rectification</b>	<ul style="list-style-type: none"> <li>• We will enter into dialogue with schools and their governing bodies where non-compliance is identified and policies and procedures need to be improved.</li> <li>• Where an NGSR approach alone is unsuccessful or where the particular non-compliance presents an imminent risk to students, we make timely recommendations to the Director General for further compliance action, including the imposition of quality improvement notices, conditions, directions or in rare circumstances, to cancel registration.</li> </ul>

<b>Monitoring</b>	<ul style="list-style-type: none"> <li>• We monitor school compliance through several mechanisms including through the receipt of complaints, reportable incident notifications and information from other agencies.</li> </ul>
<b>Support to Comply/Education</b>	<ul style="list-style-type: none"> <li>• We publish application forms and a registration guide which describes the registration standards and other requirements of Part 4 of the Act and the considerations of the Director General in assessing compliance.</li> <li>• We engage with schools individually and regularly meet with key stakeholders to clarify implementation of the standards or to consult on proposed amendments to the Guide.</li> <li>• We periodically send communiques to schools on important registration matters.</li> <li>• We participate in forums organised by stakeholders to answer questions or to provide presentations on our role.</li> </ul>
<b>Information Sharing and Partnering</b>	<ul style="list-style-type: none"> <li>• Within the bounds of disclosure provisions, we receive and share certain information relating to child safety and wellbeing. This includes the sharing of information with the Teacher Registration Directorate.</li> <li>• We engage with other regulators that may be best placed, under their legislation, to investigate or address matters of mutual concern, but which fall outside our purview.</li> <li>• We cooperate with other jurisdictions, sharing our knowledge and experience of school regulation, to discuss areas of mutual concern or national trends, and to identify best practice measures.</li> </ul>
<b>Continuous Improvement</b>	<ul style="list-style-type: none"> <li>• We seek regular feedback from schools and our stakeholders on the performance of our role and the practical application of the registration standards.</li> <li>• We seek to ensure that the Guide and our regulatory approach is contemporary.</li> <li>• We encourage staff to undertake relevant professional development to grow their understanding of school settings and the environment in which schools operate.</li> </ul>