



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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ISSN: 2209-0150

### 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> [childsafef.humanrights.gov.au/national-principles](http://childsafef.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.

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<sup>3</sup> [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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5 [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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13 [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> [childdsafe.humanrights.gov.au/national-principles](https://childdsafe.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:
- contain as much detail as possible;
  - are stored securely; and
  - 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:
- the complainant is informed about the services, including advocacy and support services, which may be available; and
  - 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://childsafe.humanrights.gov.au>

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

<sup>19</sup> <https://www.ccp.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/WhatsBullying/DefinitionOfBullying](http://bullyingnoway.gov.au/WhatsBullying/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> [childsafe.humanrights.gov.au/tools-resources/practical-tools](https://childsafe.humanrights.gov.au/tools-resources/practical-tools)

<sup>23</sup> [childsafe.humanrights.gov.au/national-principles](https://childsafe.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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<sup>24</sup> <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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<sup>25</sup> [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.

## **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.

## **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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