



Department of
Education

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

JULY 2018

NON-GOVERNMENT SCHOOL REGULATION



Guide to the registration standards and other requirements for non-government schools

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This version of the Guide reflects the following:

- The standards determined by the Minister for Education and Training (the Minister) under s. 159(1) of the *School Education Act 1999* (the Act) to take effect from 1 July 2018. These include new standards setting the minimum age at which a child may be enrolled in any school, specifying the minimum age of enrolment in a CARE school, specifying when a student may be enrolled in online-only learning as defined, and enabling the Director General of the Department of Education (Director General) to consider the number of students enrolled in a CARE school from the perspective of both safety and educational standards. Relevant new definitions have also been determined by the Minister for the purposes of the standards.
- The distinction between the standards determined by the Minister and the other requirements which the Director General – as the decision-maker on registration applications – must take into account under s. 160 of the Act. Under s. 160 the Director General considers whether:
 - the governing body has ownership, management or control of the school [s. 160(1)(a)]
 - the governing body’s constitution is satisfactory [s. 160(1)(b)]
 - all members of the governing body are fit and proper [s. 160(1)(c)]
 - the school will observe the registration standards determined by the Minister [s. 160(1)(d)]
 - day-to-day management by the principal will be separate from overall governance [s. 160(1)(e)]
 - the governing body will be accountable for:
 - the school’s strategic direction [s. 160(1)(f)(i)]
 - planning for improvements in student learning [s. 160(1)(f)(ii)]
 - financial management [s. 160(1)(f)(iii)] and
 - legal compliance [s. 160(1)(f)(iv)]
 - whether the school will provide a satisfactory standard of education [s. 160(1)(g)]
 - whether the school will provide satisfactory levels of care [s. 160(1)(h)]
- The additional responsibility of the Director General to check, when considering an application for initial registration or registration change, whether there has been any material change to the information provided to the Minister in support of an application for the required advance determination [s. 160(1)(i)]. Note that not all registration changes require an advance determination. Renewal of registration does not require an advance determination.
- The policies approved by the Director General for the consideration of applications.

Consultation:

The 2018 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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USING THIS GUIDE

This Guide sets out and explains the registration standards and other requirements guiding the decisions of the Director General of the Department of Education (the Director General) about registration of Independent 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. Note that the registration standards and other requirements are also applicable to Catholic system schools.

The registration standards

The registration standards determined by the Minister are covered in Chapter 4 and printed in full in the Appendix. The interpretation of some registration standards leaves room for the Director General to exercise a judgement while others enable the Director General to exempt an applicant from an element of the standard. Chapter 4 offers some guidance on the kinds of issues the Director General will take into account in making a judgement or granting an exemption. These are headed ‘Director General’s considerations’.

The other requirements for registration

The other requirements, listed in s. 160(1) of the Act are covered in chapters 1 to 3 and 5 to 8:

- elements of governance – ownership, management or control; constitution membership; separation of governance from day-to-day management; governing body accountabilities;
- the standard of education;
- the levels of care.

In each of these areas the Director General must make an assessment as to whether the Director General is satisfied and that assessment requires the Director General to exercise a judgement. Each chapter on these requirements sets out the kinds of issues the Director General will take into account in making a judgement. These are headed ‘Director General’s considerations’.

Other chapters

Chapter 9 briefly outlines the relationship between an advance determination and an application for initial registration or (significant) registration change.

Chapter 10 provides information for schools offering or seeking to offer education to international students.

Chapter 11 summarises the application processes for initial registration, registration change and renewal of registration.

Finally, Chapter 12 summarises the obligations imposed by the Act on governing bodies other than compliance with the registration standards and other requirements.

Explanatory notes

In each chapter there are also 'Explanatory notes' to assist users to understand the nature of the evidence which may be requested to demonstrate a school's compliance with, or observance of, a particular standard or requirement.

Legislation

- The *School Education Act 1999* [Part 4 – Non-Government Schools] requires non-government schools in Western Australia to be registered. The Act makes various provisions for the regulation of schools' operations and funding.
- In particular, the Act 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 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].
- The governing bodies of proposed new schools applying for initial registration must demonstrate that they will observe the registration standards and satisfy the other requirements. The governing bodies of schools applying for renewal of registration or registration change are expected to demonstrate that they have met and will continue to meet the registration standards and other requirements, providing such relevant information as the Director General requires.
- Under s. 28A and s. 28B of the *Children and Community Services Act 2004*, the Director General may request non-government school governing bodies to provide information she specifies relevant to the wellbeing of a child or a class or group of children. Should a governing body comply with such a request, no legal implications flow from, for example, confidentiality agreements or otherwise applicable laws, so long as the information is provided in good faith. Similarly, non-government school governing bodies may request such information from the Director General to whom the same provisions apply.

TERMS USED

Note: Defined terms are indicated as follows when used in the text: term. Definitions required for the Minister's standards are also listed on pages 77-79.

Advocacy and support services: Advocacy and support services are those 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.

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 those students. It may include, for example:

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

Boarding supervisor: A person who holds an office or position at a school's boarding facility the duties of which include the supervision of children living at the facility.

CARE school: A school established and registered solely for the education of students at educational risk.

Child abuse:

Four forms of child abuse are covered by Western Australian law:

- (1) Physical abuse occurs when a child is severely and/or persistently hurt or injured by an adult or a child's caregiver.
- (2) Sexual abuse, in relation to a child, 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 behavior.
- (3) Emotional abuse includes:
 - (a) psychological abuse; and
 - (b) being exposed to an act of family and domestic violence.
- (4) Neglect includes failure by a child's parents to provide, arrange or allow the provision of:
 - (a) adequate care for the child; or
 - (b) effective medical, therapeutic or remedial treatment for the child.

Child-safe environment: An environment in which children are protected from physical, sexual, emotional and psychological harm and from neglect. It is a safe and positive environment where children feel respected, valued and encouraged to reach their full potential.

Child wellbeing: Includes—

- (a) the care of the child;
- (b) the physical, emotional, psychological and educational development of the child;
- (c) the physical, emotional and psychological health of the child;
- (d) the safety of the child [from s. 3, *Children and Community Services Act 2004*].

Code of conduct: A code of conduct promotes positive work practices and establishes expectations for personal and professional boundaries concerning appropriate and inappropriate behaviour in relation to staff, students, volunteers, parents and guardians. It provides guidance about behaviour, relationships, attitudes and responsibilities and outlines the process that will be followed if the code is not observed.

Complainant: For the purposes of standard 12.3, the complainant is the student or former student against whom the alleged grooming or child abuse is claimed to have been committed.

Compulsory education period: A child's compulsory education period is from the beginning of the year in which the child reaches the age of 5 years and 6 months until either the end of the year in which the child reaches the age of 17 years and 6 months or the day on which the child reaches the age of 18, whichever happens first.

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 [from UN Committee on the Rights of the Child, *General Comment No. 8* (2006), paragraphs 11 and 15: CRC/C/GC/8, 2 March 2007].

Critical and emergency incidents:

- Death, or life-threatening injury, of a student or staff member at school, or following an incident that occurred at the school, or through a related school-based activity or circumstance;
- Circumstances that pose a critical risk to the health or safety of one or more students or staff;
- Receipt of an allegation of child abuse, including but not limited to sexual abuse, committed against a student by a staff member or student, or another person on the school premises or during school-related activities, whether the abuse is alleged to have occurred recently or in the past;
- Issuing a formal warning to a staff member or ceasing the employment of a staff member for a breach of the Staff Code of Conduct suspected to be grooming behaviour;
- Any incident requiring school closure, lockdown, or a reduction in the number of students or staff attending.

A circumstance posing a "critical risk" for the purposes of this definition is one which would, if action had not been taken or the risk otherwise averted, have resulted in death, life-threatening illness or life-threatening injury to one or more students and/or staff.

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 [from 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 chief executive officer of the Department of Education.

Disability: In relation to a person, this means:

- (a) total or partial loss of the person's bodily or mental functions; or
- (b) total or partial loss of a part of the body; or
- (c) the presence in the body of organisms causing disease or illness; or
- (d) the presence in the body of organisms capable of causing disease or illness; or
- (e) the malfunction, malformation or disfigurement of a part of the person's body; or
- (f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
- (g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour.

It includes a disability that:

- presently exists; or
- previously existed but no longer exists; or
- may exist in the future; or
- is imputed to a person [*Disability Standards for Education 2005* (Cth)].

Early childhood teaching qualification: A qualification which is 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 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.

Early childhood teacher: An early childhood teacher either holds an early childhood teaching qualification or has, in the opinion of the school principal, sufficient expertise as an early childhood teacher.

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. 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.

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.

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

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. The early education period is defined in the *School Education Act 1999*, section 4, as above.

Geographically isolated: A student is geographically isolated for the purposes of eligibility for enrolment in online-only learning if the student is unable to attend a school that meets his or her educational, 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 prohibiting exposure.

Minimum hours of instruction:

- (a) For kindergarten students, at least 11 hours during each week in which the school is open for instruction.
- (b) For pre-primary students, at least 25 hours and 50 minutes each week the school is open for instruction and not less than 4 hours and 10 minutes each day the school is open for instruction.
- (c) Notwithstanding paragraph (b), for pre-primary students in receipt of a curriculum recognised under section 9(1)(e)(v) of the *School Curriculum and Standards Authority Act 1997*, the hours of instruction are as directed by the principal, but must be at least 15 hours per week.
- (d) For primary and secondary students, at least 25 hours and 50 minutes each week the school is open for instruction and not less than 4 hours and 10 minutes each day the school is open for instruction, unless otherwise approved by the Director General.

Online-only learning: 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.

Other requirements: The list of matters in s. 160(1) of the Act which the Director General must take into account when considering an application, other than whether the school will observe the registration standards.

Pre-compulsory education period: A child's pre-compulsory education period is from the beginning of the year in which the child reaches the age of 4 years and 6 months until the end of that year (*School Education Act 1999*, section 5).

Premises: The land and buildings of the school or proposed school, including boarding premises where applicable.

Reasonable adjustment: In the context of a student or prospective student with disability, an adjustment which balances the needs of everyone affected. In assessing whether a particular adjustment for a student is reasonable, regard should be had to all the relevant circumstances and interests, including the following:

- (a) the student's disability;
- (b) the views of the student or the student's associate [as defined];
- (c) the effect of the adjustment on the student, including the effect on the student's:
 - (i) ability to achieve learning outcomes; and
 - (ii) ability to participate in courses or programmes; and
 - (iii) independence;
- (d) the effect of the proposed adjustment on anyone else affected, including the education provider, staff and other students;
- (e) the costs and benefits of making the adjustment [from s. 3.4(1) and (2), *Disability Standards for Education 2005* (Cth)].

See also 'unjustifiable hardship'.

Registration standards: The standards which must be observed by all non-government schools as determined by the Minister for Education on the list of matters in s.159(1) of the Act (in the Appendix).

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

Unjustifiable hardship: A defence to an allegation of disability discrimination contrary to the *Disability Discrimination Act 1992* (Cth). It is determined by the authorities established by that Act and not by the school itself. Consideration of the defence will take into account all relevant circumstances of the particular case including:

- (a) the nature of the benefit or detriment likely to accrue or be suffered by any persons concerned; and
- (b) the effect of the disability of a person concerned; and
- (c) the financial circumstances and the estimated amount of expenditure required to be made by the person – i.e. the school – claiming unjustifiable hardship; and
- (d) in the case of the provision of services, or the making available of facilities – an action plan given to the Australian Human Rights Commission under s. 64 of the *Disability Discrimination Act* [from s.11].

Note that a similar defence is available under the *Equal Opportunity Act 1984* (WA) and defined in s. 4(4).

See also 'reasonable adjustment'.

Unlawful discrimination: Discrimination in education as defined in the *Equal Opportunity Act 1984* (WA), *Racial Discrimination Act 1975* (Cth), *Sex Discrimination Act 1984* (Cth), *Disability Discrimination Act 1992* (Cth) and *Age Discrimination Act 2004* (Cth).

Acronyms and abbreviations

ACECQA	Australian Children’s Education and Care Quality Authority
AISWA	Association of Independent Schools of Western Australia
CARE school	Curriculum and Re-engagement in Education school
CRICOS	Commonwealth Register of Institutions and Courses for Overseas Students
Cth	Commonwealth (used in reference to federal legislation)
National Code	<i>National Code of Practice for Providers of Education and Training to Overseas Students 2018</i> (a legislative instrument made under the ESOS Act)
the Department	Department of Education, Western Australia
WACE	Western Australian Certificate of Education
WWCC	Working with Children Check/Card (technically called an ‘assessment notice’)
WWC Screening Unit	Office within the Department of Communities, Child Protection and Family Support Division responsible for processing WWCC applications

Notes on referencing

Acts of Parliament are given their full citation when they first appear in a section but may be referred to as ‘the Act’ thereafter unless that could cause confusion as to which Act is meant. The name of an Act is italicised only when given in full. Section numbers of an Act are usually s. # for ease of reference. The same conventions are applied to Regulations (reg. #).

Western Australian Acts and Regulations can be consulted on the [State Law Publisher’s website](#).

Federal Acts and legislative instruments are published on [Comlaw](#).

▶ 1. OWNERSHIP, MANAGEMENT OR CONTROL BY THE GOVERNING BODY

Legislation and context

Section 160(1)(a) of the School Education Act (the Act) requires the Director General to be satisfied that the governing body of a school has ownership, management or control of the school. The management referred to is different from 'day-to-day management' which is the responsibility of the principal [see s. 160(1)(e)]. Rather, it refers to overall management in the sense of governance.

This requirement enables the Director General to ensure that the governing body has the capacity and authority to:

- make applications for registration, registration change and renewal of registration as these can only be made by governing bodies;
- be identified on the school's registration certificate;
- be accountable for the school's performance;
- ensure the school complies with conditions of registration and any directions; and
- comply with the requirements of the Act and be prosecuted in the event of breaches.

Supporting evidence

The following may be requested:

- 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.
- Documents relevant to financial resources (per Standard 13).

Director General's considerations

Legal entity

Because a governing body must have a constitution which is satisfactory for the purposes of the Act (see Chapter 2), it clearly must be bound together in some way subject to a constitution and collectively have the ability to perform its obligations under the Act including, if eligible, to receive and account for funding. (Note: in order to receive Commonwealth funding, the 'approved authority' for a non-government school must be a body corporate and operate the school on a not-for-profit basis: *Australian Education Act 2013*, s. 75.)

Most governing bodies are incorporated under the *Associations Incorporation Act 2015*, with their constitutions registered with the Western Australian Department of Mines, Industry Regulation and Safety. In other cases the legal entity is registered through the Australian Securities and Investments Commission or other authorities, such as the Office of the Registrar of Indigenous Corporations.

In situations where the nature of the legal entity is unclear, the Director General may require further particulars in order to be satisfied that the nominated governing body does have one or more of ownership, management or control of the school.

In all cases, the Director General will assess the sufficiency of the evidence provided, including the extent to which any third party (e.g. a bank, benefactor, trust, collective organisation) exerts an influence over the operations of the governing body. In circumstances where the governing body is not the owner, either management or control must be established.

Ownership, management or control

Ownership refers to holding property in the school with the ability to transfer that property by sale or otherwise to another. The school's financial arrangements should reveal who has ownership of the site, premises and infrastructure. The governing body may hold a lease over the site and buildings but this is not ownership.

Management refers to the power and responsibility for organising the activities of an organisation so as to achieve set objectives. It "consists of the interlocking functions of creating corporate policy and organizing, planning, controlling, and directing an organization's resources in order to achieve the objectives of that policy" [from BusinessDictionary.com]. Evidence for a governing body's management is likely to be found in the minutes of its meetings and documents supporting the governing body's activities.

Control refers to the capacity to oversee and direct the operations of the school. Although the principal is to be responsible for day-to-day management, the source of the principal's power is to be the governing body. Not only must the governing body have the capacity or right to control and direct the operation, it must actually do so. Evidence of control is also likely to be found in the minutes of the governing body meetings and the annual general meeting as well as in supporting documentation. It will also be found in reports from the principal to the governing body and in the endorsement of school policies by the governing body. An absence of reporting to the governing body could indicate that it is not actually in control of the school.

A governing body needs to establish that it has at least one of ownership, management or control of the school. The governing body cannot be required to possess all three. However, where the governing body is the owner of the school and another body has management and control of it, the Director General may require evidence that the governing body itself will have overall governance of the school as required by section 160(1)(e) of the Act and satisfy the accountability requirements in section 160(1)(f).

▶ 2. GOVERNING BODY'S CONSTITUTION

Legislation and context

Section 160(1)(b) of the School Education Act (the Act) requires the Director General to be satisfied that the constitution of the governing body is 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”. The objects of the Act are outlined in s. 3 and relevantly include:

- (a) to recognise the right of every child in the State to receive a school education; and
- (b) to allow that education to be given in a government school, a non-government school or at home; and...
- (d) to acknowledge the importance of the involvement and participation of a child's parents in the child's education.

The purposes of Part 4 of the Act in particular were outlined in the Minister's second reading speech for the original version of the Act in 1997:

- to ensure that a certain minimum standard is maintained for children who attend non-government schools; and
- [to require] governing bodies to account for the quality of the educational programmes which they provide.

Supporting evidence

The following may be requested:

- Constitution of the governing body.
- 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.

Director General's considerations

The Director General will consider, among other relevant factors, 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.

The Director General's powers include requiring governing bodies to provide information, to comply with conditions and directions and to refrain from breaching the Act. The constitution is therefore expected to ensure that the governing body, through its board or management committee, is empowered to perform its obligations under the Act.

3. FIT AND PROPER MEMBERSHIP

Legislation and context

Section 160(1)(c) of the School Education Act (the Act) requires the Director General to consider the fitness and propriety of each governing body member to operate a school. In assessing fitness and propriety, the Director General may 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 in 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 in 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.

Supporting evidence

The following may be requested:

- Register of governing body members recording the role of each, his or her qualifications for that role and details of the WWCC held by any who work with children at the school in the course of their responsibilities. All members must be recorded on the register, including ex officio and non-voting members.
- A 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 member.

Director General's considerations

In addition to satisfying eligibility requirements for membership of the association or corporation, the members of the governing body must be fit and proper persons to operate a school. Their own conduct is relevant to their fitness and propriety; and their business, financial and related relationships may also be relevant.

The term 'fit and proper' is intended to give the widest possible discretion to the decision-maker. It can cover both character and competency and enables the decision-maker to take into account matters which can fairly be seen to be relevant to the vocation in issue. Among the factors the Director General may consider, apart from the prior conduct of the member and 'related persons' as listed above, is whether each member has qualifications, expertise or experience relevant to operating a school and whether any member has a conflict of interest which cannot be effectively managed.

The chair of the governing body will be required to confirm, in a statutory declaration, that he or she has assessed the fitness and propriety of each member and is satisfied that any potentially relevant concerns arising should not prevent the member from being a member of the governing body. The statutory declaration will also require the chair to provide information about himself or herself to enable the Director General to make a judgment about the chair's own fitness and propriety.

Of particular concern to the Director General will be:

- any conviction as an adult for any offence involving children and/or violence;
- any criminal conviction for fraud or similar, e.g. stealing as a servant;
- being answerable in the role of governing body member (e.g. as an employee) to a person with a conviction for fraud or a similar offence;
- having a conflict of interest which cannot be effectively managed.

Conflicts of interest, where they cannot be avoided, are to be declared and the conflicted member must not participate in either the discussion or the vote on the matter about which there is a conflict of interest. Ideally the member will leave the meeting while the matter is considered. A governing body's conflicts of interest, and the failure or inability to appropriately manage such conflicts, can be taken into account as relevant to fitness and propriety. The conflicts of interest affecting governing body members may be so extensive as to make the governing body dysfunctional. In such a situation, the Director General may require the governing body to amend its constitution and/or make changes to its membership.

Board members whose usual duties at the school involve or are likely to involve 'child-related work', as defined in the *Working with Children (Criminal Record Checking) Act 2004* [s. 6], should hold a WWCC. Where a member of the governing body already has a WWCC from a previous and/or other organisation or employer, the school should ensure that it is recorded as an employing authority by the WWC Screening Unit. Unless this is done, the school will not be alerted if the member's WWCC is withdrawn. For further information, refer to the [Working with Children website](#).

▶ 4. OBSERVANCE OF THE REGISTRATION STANDARDS

Legislation and context

The Minister has determined 17 registration standards in accordance with s. 159(1) of the School Education Act (the Act) and reg. 131A of the *School Education Regulations 2000*. 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 July 2018.

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

- each standard in turn;
- evidence which may be requested in support of each standard (also set out in each application form);
- explanatory notes on the evidence, if needed; and
- Director General's considerations in exercising a judgement or granting an exemption where relevant.

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▶ 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; or
 - (b) a programme of study meeting the needs of the student delivered through an Individual Education Plan.
- 1.3** Curriculum for students in the twelfth and thirteenth 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) or Cambridge International A Levels or International Baccalaureate Diploma or another qualification approved by the **Director General**; and/or
 - (b) provides a programme of study meeting the needs of an individual student delivered through an Individual Education Plan.

Supporting evidence

The following may be requested:

- Curriculum plans or teaching and learning plans for each relevant stage of schooling (e.g. Early Childhood, Middle Primary, Upper Primary, Lower Secondary, Upper Secondary).
- Educational programme and associated Individual Education Plans.
- Assessment and reporting policy, sample assessment tools, samples of student assessments and sample reports to parents for each of the year levels of education provided or for selected year levels.
- Registration with SCSA to offer Western Australian Certificate of Education (WACE) and/or Cambridge International A Levels or International Baccalaureate Diploma or another qualification approved by the Director General.
- Documentation of the Year 11 and 12 pathways provided and evidence that parents/carers have been notified of the post-school pathways for which their children would be eligible on graduation.

Explanatory notes

Curriculums

Schools may offer more than one curriculum.

For Pre-Kindergarten and Kindergarten the curriculum must be consistent with the Early Years Learning Framework for Australia.

For Pre-Primary to Year 10:

- a school providing the Western Australian Curriculum does not require individual approval to deliver that curriculum from the School Curriculum and Standards Authority (SCSA);
- a school providing an approved alternative to the Western Australian Curriculum will be identified to the Director General by the SCSA on an annual basis; and
- a school which is not identified by the SCSA as above but claims to provide an approved alternative curriculum must provide documentary evidence that the curriculum has SCSA's approval. Failure to do so will be evidence of non-compliance with this standard.

Curriculum plan

The school curriculum plan for Pre-Primary to Year 10 is to be 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 should be consistent with the school curriculum plan.

Assessment and reporting

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

A school using alternative curriculum and assessment approved by the 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 the SCSA's approval for use by that school.

Years 11 and 12

Year 11 and 12 pathways should provide graduates with a Western Australian Certificate of Education, Cambridge International A Levels or an International Baccalaureate Diploma. Schools offering an alternative pathway will be expected 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 or employment. If it does so, the Director General may approve this alternative.

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 programme is designed to meet and does meet the student's individual needs. This is particularly pertinent for a CARE school.

The assessment and reporting policy for Year 11 and 12 students undertaking a WACE pathway must be compliant with the requirements specified in the WACE Manual published by the SCSA.

▶ 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 otherwise approved by the **Director General** and subject to standard 4.2(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 children;
 - at least one **early childhood teacher** is present for every 30 students or fewer; and
 - an **early childhood teacher** is in attendance at all times that students are present.

Supporting evidence

The following may be requested:

- Where teaching is primarily face-to-face, a list of class sizes that shows the number of students, teachers, teaching assistants and other educators in each class group.
- Where teaching is primarily via online-only learning, a list of teachers and the number of students for whom they are responsible in each year level.

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

Note that 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

In Pre-Kindergarten and Kindergarten, the 1:10 ratio must be maintained, with the staff including at least one (full-time equivalent) early childhood teacher for 30 students or fewer, unless the Director General approves otherwise. The Director General may approve otherwise 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 (as established by evidence);
- staff leave or transfer has temporarily caused a reduction in numbers, as established by evidence; or
- a small number of students apply for enrolment part-way through a school year, as established by evidence.

▶ STANDARD 3

DAYS AND HOURS OF INSTRUCTION

- 3.1** Unless otherwise approved by the **Director General** and subject to standard 3.2, the school provides at least the **minimum hours of instruction** prescribed for government schools.
- 3.2** 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.

Supporting evidence

The following may be requested:

- The school's published term dates and information confirming the number of days open for instruction throughout the school year.
- The school's daily timetable showing the hours allocated for instruction each day.

Explanatory notes

The requirements for this standard are based on those for government schools. Non-government schools have the flexibility to determine the number of days open and hours allocated for instruction as long as they meet or exceed the annual total number of hours set for government schools.

Minimum days

The following considerations are applied in calculating the number of days each term that the school is open for instruction.

- Public holidays falling within term time are not counted in the calculation.
- Structured educational programmes conducted outside a school's published hours of instruction may be counted only if the programmes are a part of the curriculum and compulsory for all students. In such cases communication to parents and students about these programmes should clearly identify them as part of the normal hours of instruction.
- Week days lost through school closure for 'boarders weekends' are not counted in the calculation of the total hours of instruction. However, it is common for hours of instruction to be increased to compensate for days lost in this way.
- School development days where students do not attend are not included in the calculation.

For further information, refer to the [Department of Education website](#) which also provides information on term dates planned for future years.

Maximum hours for Pre-Kindergarten

A school choosing to provide more than the maximum 25 hours and 50 minutes per week for Pre-Kindergarten children, permitted by this standard, may be deemed to be providing a childcare service. Childcare services or centre-based services are required to be approved under the *Education and Care Services National Law (WA) Act 2012* and regulated in accordance with that Act and the *Education and Care Services National Regulations 2012 (WA)*.

Director General's considerations

The minimums set out above apply unless the Director General approves otherwise. The Director General may do so in appropriate circumstances (with supporting evidence) 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.

▶ STANDARD 4 STAFF

- 4.1** The school ensures all staff and volunteers are compliant with the requirements of the *Working with Children (Criminal Record Checking) Act 2004*, *Working with Children (Criminal Record Checking) Regulations 2005*, *Teacher Registration Act 2012* and *Teacher Registration (General) Regulations 2012*.
- 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 otherwise approved by the **Director General**:
- (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;
 - (c) there are staff on the premises with the following: a current approved first aid qualification; current approved anaphylaxis management training; and current approved emergency asthma management training; and
 - (d) a record is kept of the person responsible for each class at any time and who was working with the students at any time.
- 4.3** The school implements a Staff **Code of Conduct** for all staff, including boarding staff if relevant, which:
- (a) includes guidelines on how to comply with it;
 - (b) clearly delineates the boundaries between appropriate and inappropriate interactions between students and adults; and
 - (c) requires all staff to report objectively observable behaviour which is not permitted by 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.
- 4.4** The school provides all new staff, including new boarding staff if applicable, as soon as practicable following their appointment, an induction covering:
- (a) the Staff **Code of Conduct**;
 - (b) staff obligations to report objectively observable behaviour which is not permitted by the Code;
 - (c) the school's policies and procedures for the prevention, detection and reporting of suspected and actual **grooming** and sexual abuse;
 - (d) the mandatory reporting obligations of teachers and boarding supervisors; and
 - (e) all other school policies and procedures.
- 4.5** The school ensures all staff:
- (a) 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; and
 - (b) participate in professional learning covering the Staff **Code of Conduct**, their mandatory reporting obligations and all school policies and procedures at least biennially.

Supporting evidence

The following may be requested:

- Staff register documenting all staff including teaching, administration and support staff.
- School organisation chart which demonstrates the management structure, including the arrangements for educational leadership.
- Staff handbook.
- Staff Code of Conduct and guidelines on how to comply with it.
- Staff induction, performance management and professional learning policies and procedures and relevant documentation of their implementation.

Explanatory notes

Staff register

The school must maintain a staff register that includes the details required for the employing authority to exercise its responsibility in relation to teacher registration, employment of non-teaching staff and requirements for WWC checks and/or criminal history checks.

The staff declaration is to detail the following for both teaching and non-teaching staff:

- full name (teachers' names should be as recorded on the public teacher registration register; all other names should be as they appear on the WWC Card);
- date of birth;
- WWC Card number and expiry date or application receipt number and date;
- TRBWA registration number and status when required.

WWC Card details (or application date and receipt number) are required for:

- all staff;
- volunteers who are not parents of children at the school; and
- parents of children at the school who undertake a professional role at the school (even if unpaid).

Note that provision of application details will not excuse the governing body from taking action if the staff member's application is rejected and an interim negative notice or negative notice is issued.

Information about the WWC Check is available on the [Department for Communities \(Child Protection and Family Support division\) website](#).

Pre-Kindergarten and Kindergarten staff

The staff register must also document the qualifications held or being actively worked toward by all staff working with the Pre-Kindergarten and Kindergarten students as well as the first aid and related qualifications held by staff who are reasonably accessible to the early childhood area of the school.

The allocated teacher must either hold an approved early childhood teaching qualification as defined below or have, in the opinion of the school principal, sufficient experience as an early childhood teacher.

An early childhood teaching 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 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.

A substitute teacher may hold a primary teaching qualification and fill in for up to 12 weeks. It is the Director General's expectation that a longer period of leave taken by an early childhood teacher will be back-filled by another early childhood teacher.

All other 'educators' – commonly known as teaching assistants or aides – working with Pre-Kindergarten and Kindergarten children are also expected to hold or be actively working towards appropriate qualifications.

'Actively working towards' a qualification requires that the staff member is:

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

Additionally, a staff member 'working towards' a Diploma must either already have a Certificate III, have completed the requisite number of units in the Diploma course for award of a Certificate III or completed at least 30% of an early childhood teaching qualification. Approved early childhood Diploma and Certificate III qualifications are listed on the Australian Children's Education and Care Quality Authority (ACECQA) website.

Approved first aid, anaphylaxis management and emergency asthma management training are all listed on the ACECQA website. The requirement in Standard 4.2(c) that these staff be 'on the premises' does not require them to be on the Pre-Kindergarten and/or Kindergarten staff. However, those staff must have ready means to summon them in case of emergency, they must be able to reach the emergency promptly and they must be available at all times Pre-Kindergarten and Kindergarten children are present. Staff with these qualifications are not required to be educators themselves.

The purposes of the record which must be kept in accordance with Standard 4.2(d) include enabling the Director General to check that the staff to student ratio was maintained (see Standard 2.2) and that the teacher was present and working with the children as required. 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.

School organisation chart

The school organisation chart will provide an overview of the management structure outlining reporting relationships and educational leadership. Schools are to ensure suitably qualified and experienced educators are responsible for curriculum leadership for the different stages of schooling (including early childhood) and for establishing clear goals and expectations for teaching and learning.

Staff handbook

The staff handbook outlines the school's context, procedures and standards. The handbook will refer to the Professional Standards for Teachers in Western Australia published by the Teacher Registration Board of WA and set out expectations about interactions between staff members, students and their parents/carers. The handbook is to include procedures for staff who are not mandatory reporters to report, through the principal, all forms of suspected child abuse.

Staff Code of Conduct

The Staff Code of Conduct is designed to promote positive work practices and establish expectations for personal and professional boundaries concerning appropriate and inappropriate behaviour in relation to staff, students, volunteers, parents and guardians.

The Staff Code of Conduct must be compliant with the requirements of Standard 12 on the prevention of child abuse. It will set out the obligations of all staff to report breaches and suspected breaches of the Code and the processes to be followed by the school's leadership in the event of any such report. Simple provision of copies of the Code of Conduct, compliance guidelines and other policies and procedures will not adequately demonstrate compliance with Standard 4.4.

Induction, performance management, professional learning

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

Director General's considerations

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 and guidelines on how to comply with it, the staff handbook and all the school policies and procedures;
- oral explanation by a senior member of staff;
- inviting and responding to questions from the new staff member;
- a record of the induction and date/s provided signed by both inductor and inductee; and
- signed acknowledgment of induction in the Code of Conduct and compliance guidelines by the new staff member.

The Director General may waive the qualification requirements of 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, as established by evidence;
- staff leave or transfer has temporarily caused a reduction in staff numbers, as established by evidence;
- a small number of students apply for enrolment part-way through a school year.

Schools are expected to notify the Director General promptly should any difficulty be encountered 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 of the Standard.

▶ STANDARD 5 PREMISES

- 5.1** The premises are safe, well-maintained, sufficient and appropriate for the delivery of the curriculum to students in the year levels for which the school seeks registration or has been registered and for the number of students enrolled.
- 5.2** Unless otherwise approved by the **Director General**, 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 and for boarding students are appropriate, safe, well-maintained and sufficient for the number accommodated.

Supporting evidence

The following may be requested:

- In the case of initial registration and registration change applications, or on renewal when new buildings, including boarding facilities, have been erected on the school site:
 - a project plan showing projected completion timelines and allowance made for contingencies;
 - documentation confirming the premises meet the health, safety and structural requirements of the State or local government area;
 - documentation showing compliance with local government planning and health and safety by-laws;
 - documentation confirming the premises meet any requirement for occupancy, including approved student and staff capacity;
 - evidence of compliance with the disability access to premises requirements as applicable to building approval applications lodged after 1 May 2011.
- A maintenance schedule for the premises – both buildings and grounds.
- Occupational Safety and Health policy and procedures.
- Student-focused risk management audits and plans.
- Floor plans for the Pre-Kindergarten and Kindergarten areas – indoor and outdoor – and a schedule of use in the case of any areas which are shared with other classes.
- The number and ages of students accommodated in boarding facilities and the arrangements for their accommodation.
- Floor plans for boarding premises showing how the students and their needs are accommodated.

Explanatory notes

A child-safe environment

Consistent with Standard 12, the arrangement of the premises must enable the provision of a child-safe environment. The school must, therefore, aim to eliminate opportunities for grooming behaviour, bullying and harassment, child abuse, assaults and self-harm to occur undetected. This requires careful consideration of policies and procedures as well as the physical environment from this perspective. Given the nature of the school's duty of care in a boarding environment, separate consideration of child safety in boarding premises is required.

Project plan and approvals

The Director General does not regulate compliance with the Building Code of Australia or with local government health and safety requirements. However, copies of approvals, permits and certificates that evidence such compliance may be requested.

The details of a school's project plan may vary depending on the nature of the project (e.g. new building on a green-fields site, refurbishment of an existing building, change of use of an existing building) and the proposed use and location of the structure. In preparing a project plan, schools should take into account all applicable legislative and regulatory requirements at all levels of government: Commonwealth, State and local.

The project plan should list all actions and requirements, dates of approval or expected approval by the relevant authority and an explanation of factors which may expedite or delay approval. Although approval processes vary slightly across local government authorities, a typical project plan for a new building will address the following key stages:

- design – school planning and financing by the governing body;
- apply – application for development approval to the relevant authority;
- permit – application for Building Permit to the relevant authority;
- build – notional timeline for stages of the building works to be completed and certificates of design and construction compliance to be obtained;
- notification – notification of completion by builder and all approvals provided by relevant authorities;
- occupancy – application and issue of occupancy certificate, timeline and plan for transition to new building/s;
- contingencies – if approvals described above are delayed, what contingencies are in place?

The Director General may request evidence of approvals already obtained in relation to the stages described above.

Maintenance schedule

A planned annual maintenance schedule will cover areas such as gutter cleaning and associated short term and regular activity designed to ensure buildings and grounds are maintained for the health and safety of students and staff. Where applicable, a site visit will provide the opportunity to view an annual maintenance schedule in operation.

Occupational Safety and Health

Schools are required to demonstrate through their Occupational Safety and Health (OSH) policy and procedures that the safety and health of students, volunteers and visitors as well as staff and contractors is managed appropriately.

Risk management

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.¹ 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, welfare and safety.

1 **Important note:** The address of any such premises must be notified to the Department and recorded on the school's registration certificate in accordance with s.161(1)(b) of the School Education Act.

Minimum space requirements

The minimum space requirements for Pre-Kindergarten and Kindergarten areas apply to premises either built or occupied after August 2012 (i.e. those already in use immediately before August 2012 for Pre-Kindergarten and/or Kindergarten do not have to meet the space requirements).² Both indoor and outdoor areas must provide the minimum space per child enrolled during the scheduled use of the space by the Pre-Kindergarten and/or Kindergarten children, accepting that the same space may be used at different times for different groups.

The following cannot be counted as part of the indoor space (i.e. these are encumbered 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;
- any other space that is not suitable for children.

Also the area of a kitchen is excluded unless the kitchen is primarily for use by children as part of the educational programme.³

'Unencumbered' outdoor space does not include:

- any pathway or thoroughfare, except where used by children 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 children.⁴

A verandah can be included either as indoor space or outdoor space but not both.⁵

Despite the absence of space requirements for older buildings, the Director General may nevertheless conclude that the spaces provided are not safe, sufficient or otherwise appropriate for children in these year levels.

Boarding premises and facilities

Boarding premises and facilities will be viewed at each site visit and may be inspected at any time. All buildings used to accommodate boarding students must meet the requirements of the Building Code of Australia for Class 3 buildings to ensure appropriate standards for the health and safety of all enrolled students, including those with disabilities.

The boarding facilities, vehicles, furniture and equipment must conform to fire and safety regulations, be sufficient and appropriate, provide personal privacy, and be clean and well-maintained for all the communal and private aspects of boarding. Where there are students with disabilities, their accommodation should be suitably adapted for access to all necessary facilities and areas.

Director General's considerations

Safe premises

Safety considerations include:

- 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.

2 Consistent with the standard for education and care services: *Education and Care Services National Regulations 2012* (WA), reg. 383.

3 Consistent with the standard for education and care services: *Education and Care Services National Regulations 2012* (WA), reg. 107(3).

4 Consistent with the standard for education and care services: *Education and Care Services National Regulations 2012* (WA), reg. 108(3).

5 Consistent with the standard for education and care services: *Education and Care Services National Regulations 2012* (WA), reg. 107(5) and 108(4).

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.

Accessibility

Appropriateness considerations also include whether the premises are accessible for students with disability and enable them to participate in the learning, recreational and support programmes of the school.

School premises (including boarding accommodation and new parts of existing premises) for which a building approval application was lodged after 1 May 2011 must comply with the *Disability (Access to Premises — Buildings) Standards 2010* (access to premises requirements) made under the *Disability Discrimination Act 1992* (Cth). These aim ‘to ensure that dignified, equitable, cost-effective and reasonably achievable access to buildings, and facilities and services within buildings, is provided for people with a disability’ [cl. 1.3(a)].

If compliance would cause unjustifiable hardship, it is excused [cl. 4,1]. Cost is not the sole determinant of unjustifiable hardship. Schools may refer to the ‘Guidelines on Compliance’ issued by the Australian Human Rights Commission which contain useful details on the determination of unjustifiable hardship among other explanatory information. Alternatively, a school may apply to the Commission for an exemption from compliance [cl. 5.1].

Only an application for a building permit triggers the *Disability (Access to Premises – Buildings) Standards 2010*, even after 1 May 2011. Not all renovations require a building permit. Also, some which do require a permit will not necessarily trigger the *Standards*, e.g. renovations to meet fire safety standards.

If the Disability Access Standards apply, a school would be expected to have documentary evidence of compliance.

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 child or children 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 child or children;
- a small number of students apply for enrolment part-way through a school year.

▶ STANDARD 6 FACILITIES

- 6.1** The facilities used by the school, including vehicles if any, are fit for purpose, safe, hygienic, well-maintained, sufficient and appropriate for the delivery of the curriculum to students in the year levels for which the school seeks registration or has been registered and for the number of students intended to use them.
- 6.2** The school provides such **ancillary support** as is necessary to ensure equity of access to educational programmes for all students enrolled.

Supporting evidence

The following may be requested:

- Maintenance and replacement schedules for all facilities, including play areas, furniture and equipment.
- Maintenance schedules, licencing compliance and driver qualifications for all vehicles owned or leased by the school and used to transport students.
- Student-focused risk management audits and plans for all facilities, including play areas, furniture and equipment, design and technology workshops or similar high risk environments.
- 'Use of private vehicle' policy.
- Policies or guidelines on use of facilities by students.
- Records of assessment of student needs and adjustments made to accommodate these needs.

Explanatory notes

Maintenance and replacement

A planned annual maintenance schedule will cover matters such as air conditioning maintenance, servicing of workshop machinery and associated short term and regular activity designed to ensure all facilities and equipment are maintained for the health and safety of students and staff.

A replacement or improvement schedule will outline, for a two to five year period, key areas such as painting, carpets, computers and furniture. This schedule will commonly include an associated budget plan and date for action.

Vehicles

Schools owning or leasing vehicles used for transporting students must comply with State licensing and inspection regulations regarding safety and maintenance. Licensing details and maintenance schedules provide evidence of compliance with this Standard.

Risk management

Risk management audits of facilities other than premises which comply with 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. Hazard reduction measures identified in these audits must be appropriately implemented.

Director General's considerations

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;
- 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 or 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.

Ancillary support

Among relevant considerations are whether the school has an adequate understanding of each student's needs, before and during enrolment in order to provide the requisite ancillary supports to ensure access to educational programmes.

STANDARD 7

CHILDREN PER YEAR LEVEL

7.1 The number of students in each year level is sufficient to sustain delivery of the approved curriculum and provide the necessary **ancillary support**.

Supporting evidence

The following may be requested:

- A list that records the number of students in each year level.
- A projection of future enrolments for a five year period with the reasons explaining any forecast change.

Director General's considerations

Student numbers

The sufficiency of the number of students in each year level will depend on the following among other factors:

- the school fees and the extent to which they are paid;
- the costs associated with delivering the approved curriculum including the mode of delivery, instructional design, required resources and technologies;
- the learning and interaction needs of the students including their age and maturity and relevant learning support needs.

'Delivery of the approved curriculum' includes teaching, assessment and reporting to parents (see Standard 1).

Applicants for initial registration or for a registration change to add one or more year levels of education are to demonstrate how they will meet the student enrolment objectives set out in the following table, unless exempted by the Director General. The relevant number of children to attend an applicant school should be reached within five years after the year in which the school opens or from the commencement of the proposed extension.

Year levels offered	Projected number of students	
	Urban	Rural – population less than 5,000
Pre-Kindergarten, Kindergarten, Pre-Primary and/or Primary	180 (enrolled in the school)	90 (enrolled in the school)
Secondary	40 (minimum average <i>per year level</i>)	25 (minimum average <i>per year level</i>)
Combination	Combination of above	Combination of above

The Director General may exempt an applicant school from approximating these numbers if satisfied that the school:

- will serve an identifiable group;
- is located in an area where an appropriate schooling option is not available to the members of that group; and
- will be educationally and financially viable despite the low numbers of students.

The Director General may also exempt an applicant from reaching these numbers if the application is for initial registration to provide Pre-Kindergarten, Kindergarten and/or Pre-Primary education only.

All schools are required to provide statistical information on the number of students enrolled through the February and August Censuses. This requirement applies to all schools, including those not receiving *per capita* funding.

The number of children in each year level is expected to be consistent with projections made at initial registration and/or the forecasts made in the school's business plan and strategic direction. The sustainability of schools falling below the student enrolment objectives may be reviewed at any time in accordance with Standard 13.

▶ STANDARD 8

ENROLMENT AND ATTENDANCE PROCEDURES

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

Supporting evidence

The following may be requested:

- Enrolment policy and procedures and associated documents such as the prospectus, enrolment information and other documents for prospective students and their parents and an enrolment application form.
- Attendance policy and procedures, including the procedures for monitoring and recording student attendance and following up on extended absences and unexplained absences of any duration.
- The school's enrolment register and attendance records maintained in accordance with legal requirements.

Explanatory notes

Enrolment

Schools must have an enrolment policy and associated documents such as an enrolment application form and published information for prospective students and their parents (including details of the orientation process for students and their families).

The enrolment application form will require parents/carers to provide information to the school that enables it to meet its legal obligations (student's legal name, usual place of residence and date of birth) as well as other matters to support the safe enrolment of their child. This information may include:

- details of legal provisions for care, welfare and development of the student (including copies of Family Court orders);
- country of residence of student and, if applicable, the right to reside in Australia;
- emergency contact information;
- details of any disability the student is known to have;
- student's vaccination status;
- details of any medical condition the student is known to have and any procedure to be followed if the condition requires or may require support during the school day [see s.16(1) of the *School Education Act 1999* and reg. 5 of the *School Education Regulations 2000*].

As part of their enrolment policy and procedures, schools should ensure that they have practices in place for regularly updating each student's enrolment information and for securing the confidentiality of students' personal information.

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

The School Education Act [s. 19] and Regulations [reg. 6] require a principal to ensure that an enrolment register is kept showing the name, date of birth and date of enrolment of the enrollee as well as the date on which enrolment ceases.

Other than cancelling enrolment lawfully under s. 20, 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 exempted under s. 11 or is being home-schooled; or
- the Minister 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 [reg. 11] and the School Curriculum and Standards Authority [under the *School Curriculum and Standards Authority Act 1997*, s. 19F(2)].

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

The enrolment particulars of each child must be retained for seven years from the day on which that child's enrolment ceases [reg. 7] and thereafter must not be destroyed without the authority of the Director General. The Director General is responsible, in so far as practicable, for ensuring that the particulars are retained permanently [reg. 10].

Attendance

Schools' attendance policy and procedures must make provision for monitoring the attendance of all enrolled students, identification of students with attendance issues and implementation of appropriate measures to restore regular attendance. The parents of children of compulsory school age are responsible under the School Education Act for ensuring their child is attending school on a daily basis [s. 23] unless exempt under s. 11 (outlined below), being home-schooled, undertaking an option other than school under s. 11B or subject to an arrangement entered into by the principal under s. 24.

The Act requires a principal to 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 [s.28]. 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].

Attendance procedures are to include instructions to staff regarding standardised recording, the notification of extended absences or regular non-attendance and the monitoring of attendance. Recording attendances should be done at least twice each day.

The child's parents or another 'responsible person' should be asked to provide an acceptable explanation for any absence to the principal [s. 25]. Schools may also note that a principal can require a student not to attend for health reasons [s. 27].

Schools are expected to develop 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 (STS), a cross-sectoral initiative involving both government and non-government schools, 'missing' students must be reported to the Student Tracking Coordinator (STC) in the Department of Education. The STC will 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](#).

Unlawful discrimination

A school's enrolment practices must avoid discrimination on the ground of sex except where the school is solely for students of one gender.

Race discrimination must be avoided in both enrolment and attendance practices. Religious discrimination may be justified if the school is conducted in accordance with a particular religion.

The *Disability Standards for Education 2005* made under the Commonwealth's *Disability Discrimination Act 1992* outline how education and training may be made accessible to students with disabilities so as to avoid disability discrimination. The Standards require that reasonable adjustments be made to enable a student with a disability to participate on an equal basis unless to do so would cause unjustifiable hardship to the school. The Standards set out measures which, if implemented, will demonstrate compliance with the *Disability Discrimination Act 1992*. A school *may* implement alternative measures in order to comply.

Exemptions from attending

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 1999* 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.

When a student reaches Years 11 and 12 and participates in employment, a traineeship or an apprenticeship, a *Notice of Arrangements form* must be completed seeking the Minister's acknowledgement of the student's participation in one or more education, training or employment options. Completion of a *Notice of Arrangements form*, satisfies a parent's legal obligation under the Act to enrol the student during the compulsory education period.

CARE schools

CARE schools are registered to enrol secondary-aged students at educational risk. This is defined to mean that the student is 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.

The principal is responsible for determining whether each student is at educational risk such as to entitle the school to enrol him or her. The evidence for the principal's decision must be fully documented and retained.

Director General's considerations

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. Note that 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.

▶ STANDARD 9

CRITICAL AND EMERGENCY INCIDENTS

- 9.1** The school has and implements a **critical and emergency incidents** policy and procedures which:
- (a) define **critical and emergency incidents** consistently with these standards;
 - (b) require all **critical and emergency incidents** to be reported and documented;
 - (c) enable and require the Principal to notify the governing body of all **critical and emergency incidents**;
 - (d) enable and require **critical and emergency incidents** to be managed in such a way as to give highest priority to the best interests of the student or students affected.
- 9.2** The governing body ensures the **Director General** is notified as soon as practicable and, in any event within 48 hours of the incident, using the Critical and Emergency Incident Report form, available at <http://www.des.wa.gov.au>

Supporting evidence

The following may be requested:

- Critical and emergency incidents policy and procedures.
- Evidence of notification to the governing body of all critical and emergency incidents.
- Evidence of incidents being managed in the best interests of the student or students affected.
- Critical and emergency incidents register including outcomes of any review of policy or procedure following an incident.

Explanatory notes

Defining critical and emergency incidents

A school's policy and procedures must include the Minister's definition of critical and emergency incidents in full. This covers five circumstances:

- death, or life-threatening injury, of a student or staff member at school, or following an incident that occurred at the school, or through a related school-based activity or circumstance;
- circumstances that pose a critical risk to the health or safety of one or more students or staff*;
- receipt of an allegation of child abuse, including but not limited to sexual abuse, committed against a student by a staff member or student, or another person on the school premises or during school-related activities, whether the abuse is alleged to have occurred recently or in the past;
- issuing a formal warning to a staff member or ceasing the employment of a staff member for a breach of the Staff Code of Conduct suspected to be grooming behaviour;
- any incident requiring school closure, lockdown, or a reduction in the number of students or staff attending.

* In addition, the nature of a critical risk must be defined as follows: a circumstance posing a "critical risk" for the purposes of this definition is one which would, if action had not been taken or the risk otherwise averted, have resulted in death, life-threatening illness or life-threatening injury to one or more students and/or staff.

Policy and procedures

Schools must have a documented critical incidents policy together with procedures that cover the action to be taken in the event of a critical or emergency incident, the required follow-up to the incident, and the recording of the incident and the action taken. The school's focus must clearly be on prevention and recovery. Thus the policy is to cover:

- risk assessment;
- prevention and preparedness;
- response to the incident;
- recovery from the incident;
- recording of the incident; and
- review of policy and procedures.

Notifications

The school's procedures should clearly stipulate notification of the governing body and of the Director General and require records to be kept of each notification.

Notification of the Director General must be on the approved form and sufficiently detailed to enable the Director General to scrutinise the school's responses in line with this standard and the other standards and requirements. It will generally be insufficient notification to advise the Director General that the incident was 'resolved in line with school policy' or similar. The actual outcome in practice must be outlined, making reference to relevant school policies, and how the incident was managed in the best interests of the student or student(s) affected.

Where a principal knows that a mandatory report has been made in regard to a student at their school, the governing body and Director General are to be notified as this falls within the definition of a critical incident. The description of the incident in the *Critical and Emergency Incident Report Form* on the Department of Education website, needs only to record that a mandatory report has been made to the Department for Communities (Child Protection and Family Support division), providing the report receipt number.

The identity of the persons involved, and the identity of the mandatory reporter, must not be disclosed on the *Critical and Emergency Incident Report Form* notified to the Director General.

Similarly, where a formal warning has been issued to a staff member, or the employment of a staff member has been terminated for a breach of the Staff Code of Conduct suspected to be grooming behaviour, the governing body and Director General are to be notified. Note that the Teacher Registration Board may also have to be notified: refer to *Teacher Registration Act 2012*, s. 42.

As resolution of a critical and emergency incident may not be achieved until some time after the occurrence of the incident, and schools are required to report the incident within 48 hours to the Director General, further information may be requested about the resolution of the incident. When critical and emergency incidents occur, a key focus of the Director General will be to assess whether the school and governing body continue to meet the registration standards and other requirements for registration.

▶ STANDARD 10

BOARDING

- 10.1** Staff employed to supervise the boarders are competent, fit and proper persons, qualified to manage their care, welfare and needs and compliant with the *Working with Children (Criminal Record Checking) Act 2004*.
- 10.2** The school maintains open and effective communication with the parents and guardians of boarders.
- 10.3** The boarders receive a well-balanced and nutritious diet.

Supporting evidence

The following may be requested from schools providing boarding facilities:

- Current number of boarding students.
- The details of staff employed in the management and operation of the school's boarding facility including their qualifications and experience.
- Fit and proper policy for boarding supervisors.
- Catering policy.
- Student code of conduct for boarders.
- Parent and student handbooks.

Explanatory notes

Policies and procedures

Policies and procedures must be in place for student boarding facilities and should 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 boarding student welfare and safety policies and procedures including provision for reporting critical incidents and the student code of conduct must be reviewed regularly, including after the occurrence of any critical or emergency incident. Breaches of the student code of conduct are to be dealt with in accordance with the school's management of student behaviour (compliant with Standard 14).

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. The policies and procedures should also give due recognition to the finding of the Royal Commission into Institutional Responses to Child Sexual Abuse that the risk of child sexual abuse in boarding schools is heightened.*

* *Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse, 2017, Preface and Executive Summary, p. 84.*

Boarding staff

Details about boarding supervisors and other staff are to be recorded on the staff register. All must hold a WWCC or have applied and not been refused (in which case, the application date and receipt number must be recorded).

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 can cover both character and competency and enables the decision-maker to take into account matters which can be fairly seen to be relevant to the role. Of particular concern to the Director General will be:

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

It is expected that the school will have a fit and proper policy, approved by the governing body, to ensure boarding staff members are fit and proper. The policy should at least outline the offending history considered relevant, other checks to be made, qualifications and other matters considered by the governing body to be relevant.

Whether a member of the boarding staff is a boarding supervisor or not depends on whether he or she supervises the boarders, or any of them, at any time. Any staff member whose role includes supervision of boarders at any time is a boarding supervisor. As of 1 January 2016, boarding supervisors are mandatory reporters (of suspected child sexual abuse) under the *Children and Community Services Act 2004*. Note that nurses are also mandatory reporters.

Professional learning for all staff members within boarding facilities, particularly referencing the school's Staff Code of Conduct and guidelines on how to comply with it, is to be conducted at least biennially. Boarding supervisors must also receive professional learning in their mandatory reporting obligations.

Director General's considerations

Staff

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

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 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.

▶ STANDARD 11

COMPLAINTS MANAGEMENT

- 11.1** The school has and implements policies and procedures for receiving and handling complaints, including complaints from students, which are child-friendly, publicised and readily accessible to all members of the school community.
- 11.2** Complaints are handled promptly, objectively, fairly and confidentially, remedies are provided when complaints are upheld and there is a system for review.
- 11.3** Reports, complaints and allegations are recorded in such a way as to enable the detection of any patterns emerging over time.
- 11.4** Complaints from former students and/or their parents or guardians are accepted and dealt with in accordance with this standard despite enrolment of the student having ceased.

Supporting evidence

The following may be requested:

- The school's complaints management policy and procedures.
- The school's record(s) or register(s) of reports, complaints and allegations.
- Evidence of review of the school's record of complaints and its complaints management system.

Explanatory notes

Policy and procedures

The school's complaints management system, should be regularly evaluated by self-review or external review as appropriate with reference to the current *Australian Standard for Complaint Management in Organizations* [AS/NZS 10002:2014], in particular Appendix A of that standard, unless an alternative appendix is determined as more appropriate to the school.

Director General's considerations

Accessible

The school's complaints policy and procedures must be clear, open and accessible to all members of the school community. Information about the process for raising concerns and lodging complaints must be made available to parents, students, staff and the community. This can be done via a range of media.

The school's complaints policy, and an email address and phone number to make a complaint, should be publicly accessible on the school's website. Information about the complaints policy should also be available in the student and parent handbooks.

To increase accessibility for all members of the school community, including students, a simple flow diagram should be included. Schools with boarding facilities must include or provide separate policies/procedures/flow diagrams for boarders and their parents or guardians.

Child-friendly

The school's complaints management system should be regularly evaluated by the school or governing body, by self-review or external review as appropriate to the circumstances, with reference to the resource: *Are You Listening?: Guidelines for making complaints systems accessible and responsive to children and young people*, WA Commissioner for Children and Young People, June 2013, unless an alternative recognised framework concerning child-friendliness is determined by the school or governing body as the more appropriate.

It is expected that consideration will be given to at least the following (adapted from the Commissioner for Children and Young People's guidelines as noted above):

- students are acknowledged as service users;
- students are made aware of their right to make a complaint by means and in language which take into account their age, language background and other relevant factors;
- students can choose how to make a complaint, including by speaking to someone face-to-face;
- the school creates opportunities for students to give feedback and discuss their experiences;
- the complaints process and possible outcomes are outlined in a publication or publications which are developmentally suitable for and appealing to the students of the school, including by illustrations or other visual material;
- the school enables an advocate to complain on behalf of a student and, when that occurs, makes sure the student can participate directly to the extent he or she wishes;
- students are provided with an advocate, independent from the complaint investigation and management process, when they do not have one;
- a student's complaint is promptly acknowledged;
- staff handling students' complaints, and those reviewing the outcome of a complaint, have training in working with children;
- understanding, helpfulness and responsiveness is demonstrated towards student complainants;
- students' understanding of information provided about the complaints process is checked;
- student complainants are given choices about how they wish to be kept informed about the progress of their complaint;
- the policy provides appropriately for maintaining confidentiality and obtaining the student's consent in relation to the complaint;
- student complainants are made aware of the limits of confidentiality as the process progresses; and
- staff are trained in the school's complaints procedures, particularly as they apply to student complainants.

The school should be able to demonstrate how periodic review of the child-friendliness of the school's complaints management policy has contributed to improvement in the organisation's complaints management system for children and young people.

The school should also be able to demonstrate that complaints raising potential child wellbeing concerns are prioritised, and that referrals to appropriate authorities have been made as a result of a complaint when required, for example, to the Western Australia Police Force or the Department of Communities (Child Protection and Family Support division).

Fair process

Fairness, which must be accorded to both the complainant and the person against whom the complaint is made, requires that:

- each party has an opportunity to be heard, in person or in writing as appropriate and to respond to the allegations and/or evidence offered by the other;
- issues or facts which are disputed are investigated;
- the investigator is free from bias or the perception of bias and, in particular, is not 'judge in his or her own cause';
- any complaint outcome is supported by the evidence, necessitating a finding on the balance of probabilities in the event of a dispute of fact;

- the complaint outcome is finalised by an adjudicator, who may also be the investigator, who is free from bias or the perception of bias; and
- the outcome is consistent with established school policy.

However, procedural fairness does not otherwise dictate the outcome of a complaint.

Note that Standard 11.2 requires that an avenue for review be available if either party is aggrieved by the initial outcome. Information about the system of review for a complaint included in the school's policy, and contact details for requesting a review of the complaint outcome, should be provided in the written response to a complaint.

Complaints to the Director General

Where complaints have been submitted to the Director General, the complainant may be referred to the school's complaints policy for resolution through the published procedures, if that process has not already been followed.

Information received by the Director General in connection with a complaint will be evaluated and actioned as follows:

- if a child abuse concern is raised the matter will be immediately referred to the Department for Communities (Child Protection and Family Support division) and Western Australia Police Force;
- if another child wellbeing matter is raised it may be referred to a relevant agency under the Department's information-sharing protocols;
- if possible teacher misconduct or incompetence is raised it will be referred to the Director, Teacher Registration for appropriate action;
- if a non-compliance with a standard or other requirement is alleged, including this standard, the Director General may inquire into whether the school is observing the standards and other requirements.

The Director General does not have a power to resolve a complaint or determine the outcome of a complaint made to a school. The Minister has a power under the Act to review a decision as to an individual student (s.223). The Minister may, but is not obliged to, conduct a review under this section. Where complaints have been submitted to the Minister, the complainant may be referred to the school's complaints policy for resolution through the published procedures, if that process has not already been followed.

▶ STANDARD 12

CHILD ABUSE PREVENTION

12.1 The school implements policies, procedures, practices and strategies for the prevention of **grooming** and **child abuse**, including for boarding facilities if applicable, which are informed by an authoritative and context-appropriate child-safe organisation framework, approved by the governing body, reviewed annually and updated in light of experience and relevant research, including at least:

- (a) arrangement of all premises and implementation of policies and procedures to deter inappropriate interactions and facilitate detection;
- (b) staff recruitment practices which:
 - engage only those who are suitable to work with students; and
 - make every attempt to assess commitment to the Staff **Code of Conduct** on the part of applicants;
- (c) annual professional learning for all staff on the recognition of **grooming** and child abuse and appropriate prevention practices and strategies;
- (d) delivery to all students of a developmentally appropriate protective behaviours curriculum, developed by experts in **child abuse** prevention, and covering what the boundaries are between appropriate and inappropriate interactions and when, how and whom to tell when a boundary is crossed;
- (e) a **code of conduct** for students which sets out minimum standards of conduct, prohibits bullying, harassment and other forms of peer-to-peer abuse and requires respect for the privacy and human dignity of other students and boarders where relevant; and
- (f) provision of information to parents and guardians about the protective behaviours curriculum, the Staff **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.

12.2 Procedures for the detection and reporting of Staff **Code of Conduct** breaches, **grooming** and **child abuse**, at the school or boarding facility if relevant, include at least the following requirements:

- (a) that staff must understand and comply with their mandatory reporting obligations;
- (b) in cases where a former student, or the parent or guardian of a former student, makes an allegation about child sexual abuse at the school occurring before 2009, the Department of Communities - Child Protection Service is to be informed immediately;
- (c) that victimisation of staff, students, parents and guardians for making an allegation in accordance with the school's policy, is forbidden, including where the allegation is unfounded; and
- (d) that the governing body ensures that actual breaches of the Staff **Code of Conduct**, where there are reasonable grounds to suspect **grooming**, are reported to the Director General in accordance with standard 9.2.

12.3 The school responds appropriately to allegations of Staff **Code of Conduct** breaches, **grooming** and **child abuse** in the best interests of students and in accordance with a policy and procedure which at least requires that:

- (a) the governing body and Principal comply with their legal and professional obligations;
- (b) in the case of an allegation of **grooming** or **child abuse** by current or former staff, the **complainant** is informed about the services, including **advocacy and support services**, which may be available; and
- (c) consultation is undertaken with the relevant government authorities to determine when, what and by whom information related to an allegation of **child abuse** and its investigation may be given to the person against whom the allegation is made, the **complainant** and his or her parents/guardian, other affected students and their parents and guardians, and the wider school community.

Supporting evidence

The following may be requested:

- Staff Code of Conduct and guidelines on how to comply with it.
- Code of conduct for students and procedures for student induction.
- Evidence that students understand and comply with the code of conduct for students.
- School procedures applicable to the detection and reporting of grooming and child abuse.
- Evidence that demonstrates how the school has dealt with any grooming or child abuse concerns raised.
- Evidence that staff understand, support and comply with the Staff Code of Conduct and related procedures and requirements.
- Evidence of the provision of mandatory reporting training of staff, including boarding supervisors where relevant.

Explanatory notes

A child-safe organisation

It is generally expected that compliance with this Standard will be demonstrated through the comprehensive implementation of a relevant child-safe organisation framework benchmarked as better practice by a peak body.

Child abuse prevention measures should be under continuous review in all schools and boarding facilities including as:

- relevant and authoritative research is published;
- relevant inquiry findings and recommendations are delivered, such as those of the Royal Commission into Institutional Responses to Child Sexual Abuse;
- complaints are made and critical incidents occur and are investigated and resolved.

It will not be sufficient to demonstrate compliance through a suite of policies, procedures, practices and strategy documents alone. Various evidence or records showing active implementation and review will be required to satisfy the Director General.

Code of conduct for students

The code of conduct for students should set out the minimum standards of conduct to be observed by students attending the school and boarding facilities if relevant. The code should guide student behaviour, establish expectations for personal boundaries and clearly delineate appropriate and inappropriate behaviour in relation to staff, other students and other members of the school community. The code should make clear when, how and whom to tell when students have concerns about breaches of the code of conduct for students.

▶ STANDARD 13

FINANCIAL RESOURCES

13.1 The school is financially viable.

13.2 The school's financial resources are sufficient to enable it to deliver the curriculum for the number of students enrolled in the year levels for which the school is or seeks to be registered and to provide necessary **ancillary support**.

Supporting evidence

The following may be requested:

- Most recent audited financial statements, independent audit report and independent auditor's management letter.
- Current school year operating financials (management accounts).
- Schedule of loan agreements, if applicable, including loans payable, loans receivable, internal loans and external loans.
- Property lease or rental agreements, if applicable, including the length of the lease or rental agreement and the annual cost of accommodation services.
- Current school business plan.
- Current year's budget and forecast budgets for three to five years.
- Insurance policies.

It should be noted that schools may be requested to submit additional evidence in relation to ongoing financial viability and management.

Explanatory notes

A school's financial resources are expected to be sufficient to enable it to operate effectively as registered for a full school year.

Financial statements

The audited financial statements are to include a statement of income and expenditure (statement of comprehensive income), balance sheet (statement of financial position) and (where it exists) a statement of cash flow to the end of the immediate past calendar year. Depending on the date of the school visit, it is expected that audited financials are available for any visit after April. Otherwise unaudited financials to the end of the immediate past calendar year are to be submitted as well as the most recent audited financial statements that are available.

The financial statements should be accompanied by the independent audit report, the auditor's independence declaration and management letters and the school's response, if applicable. Management letters list matters that auditors have brought to management's attention.

The independent audit report and independent auditor's management letter must be prepared by a registered auditor (as defined in the *Corporations Act 2001*); that is, an auditor registered with the Australian Securities and Investments Commission (ASIC) who can be an individual auditor, an audit firm or an audit company. The auditor must attach an independence declaration.

Management accounts

The school's most recent operating financials (management accounts) including variance analysis to the budget at the time of the site visit and forward projections to the end of the current calendar year are also required. These accounts are also to include a statement of income and expenditure and a balance sheet.

Loans

Loan agreements may impact the financial viability of the school. A schedule of any agreements is required if it has not already been provided in the financial statements. The schedule is to include the following information with respect to each loan: loan provider, loan amount, current outstanding debt, repayment amount and frequency, interest rate and security against the debt. It is not necessary to include information about government-funded Low Interest Loans, as this information is held by the Department of Education.

Leases

Lease and rental agreements may also impact on the financial viability of a school. Formal written agreement(s) are to be provided for the property used by the school and should detail the annual cost of accommodation services. Each agreement should be signed and dated by both parties (i.e. owner and lessee), include the length of tenure and clearly state on the document all parties involved.

Business plan

A school business plan outlines the current objectives/targets to be achieved through the day-to-day operation of the school. It is for the school to determine the size of any such plan, based on the level of detail deemed appropriate to the school context. However, it must at least include projections of student numbers and detail the assumptions on which these projections are based and the evidence supporting these assumptions. A school business plan may be part of the school's strategic plan.

Budgets

The current year's budget and forecast budgets as per the school's business plan provide information about predicted future enrolment trends, income, expenditure and cash flow. These include cash flows for projected operations of the school including asset investment plans. They provide evidence of the school's sound financial management and ongoing viability. This information is also linked to the Board's strategic plan for the school.

Insurance

Schools are expected to keep current insurance policies in areas such as public liability, professional indemnity, buildings and related risks.

Grants Auditing Program

Schools receiving State funding are required to submit a grant acquittal annually and can be audited randomly at any time under the Department's Grants Auditing Program (GAP) at least once every five years.

▶ STANDARD 14

MANAGEMENT OF STUDENTS' BEHAVIOUR

- 14.1** 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.
- 14.2** The use of any form of **child abuse, corporal punishment** or other **degrading punishment** is explicitly forbidden, and these terms are defined in accordance with these standards, in appropriate school publications and the Staff **Code of Conduct**.
- 14.3** The administration of permitted forms of behaviour management, discipline or punishment conforms to the principles of procedural fairness and the prohibition of **unlawful discrimination**.

Supporting evidence

The following may be requested:

- Copies of the school's behaviour management or discipline and punishment policies and procedures, however described.
- Documented evidence of consistent, proportionate and fair application of the policies and procedures.

Explanatory notes

This Standard was first introduced from 8 February 2016. It bans the use of corporal punishment and other degrading punishments in schools, as well as child abuse as a punishment or behaviour management tool. It also explicitly extends the requirement for procedural fairness in complaint handling to schools' disciplinary actions (i.e. complaints by the school against a student).

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.

Fair process

At a minimum, procedural fairness in implementing student discipline requires that:

- there is a clear relationship between the rules and the allegation against the student;
- the student is informed about the nature of the complaint or alleged breach in such a way that he or she is capable of understanding it clearly;
- disputed matters are fully investigated;
- the student is given a reasonable opportunity to respond to the allegations or complaint;
- both the investigator and the decision-maker/adjudicator (who may be the same person) are free from bias and from the perception of bias;
- the decision-maker acts reasonably and consistently with school policy;

- the process and outcome are apparently free from discrimination on prohibited grounds; and
- the response (consequence) is proportionate to the student's conduct.

A school's response to a student's breach of discipline must not only accord procedural fairness to the student but also be proportionate to the nature of the breach and provide an avenue to appeal the outcome.

Discipline records

Schools are required to keep records of disciplinary actions and to ensure that relevant policies are implemented fairly.

▶ **STANDARD 15**

MINIMUM AGE OF ENROLMENT

- 15.1** Unless the **Director General** provides approval in advance, 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.
- 15.2** A **CARE school** does not permit any child to be enrolled before the eighth year of their **compulsory education period**.

Supporting evidence

The following may be requested:

- Enrolment register.
- Evidence of information used to confirm date of birth entered on the enrolment register.

Explanatory notes

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 3.2. There is nothing in the Standards to 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.

Director General's considerations

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.

▶ STANDARD 16

DELIVERY OF THE CURRICULUM

16.1 The provision of educational programmes exclusively by means of **online-only learning** is restricted to students who are **geographically isolated**, temporarily living or travelling overseas, participating in elite performance in sport or the arts, or unable to attend at a school due to illness, bail conditions or another special circumstance acceptable to the **Director General**.

Supporting evidence

The following may be requested:

- Documentation of the reason for accepting each student for enrolment in online-only learning.

Explanatory notes

Policies and procedures

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 for day-school students.

Director General's considerations

The Director General may approve enrolment in online-only learning under special circumstances providing it can be demonstrated that proper consideration has been given to reasonable alternatives and the online-only programme will be satisfactory in meeting the needs of the student.

▶ **STANDARD 17**

NUMBERS OF CHILDREN ENROLLED

17.1 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.

Supporting evidence

The following may be requested:

- Enrolment register.
- Attendance register.
- Individual education and care plans and documentation showing analysis of the effectiveness of the plans and revised plans to address issues identified.
- Timetables for individuals and groups of students showing delivery of educational programmes and ancillary support.
- Floor plans showing premises and facilities used to deliver educational programme and ancillary support.
- The qualifications of all staff delivering the educational programme and ancillary support.

Explanatory notes

This Standard currently applies only to CARE schools.

Policies and procedures

CARE schools should note other Standards which may be solely or particularly relevant to their management and programmes: Standard 1.3 regarding the delivery of educational programmes to students in the final two years of their compulsory education period, Standard 8.2 requiring CARE schools to document their reasons for enrolling each student, and Standard 15.2 limiting CARE schools to secondary-aged students.

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.

▶ 5. SEPARATION OF GOVERNANCE AND DAY-TO-DAY MANAGEMENT

Legislation and context

Section 160(1)(e) of the School Education Act 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.

Supporting evidence

The following may be requested:

- Governing body constitution or a supporting document such as the rule book showing how day-to-day management and governance are distributed between the school principal and governing body.
- Any instruments executed by the governing body delegating powers and functions to a committee and/or the school principal.
- Principal's job description.

Explanatory notes

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. "The role of management is to run the enterprise and that of the board is to see that it is being run well and in the right direction."⁶

The separation is also related to accountability. The principal is accountable to the governing body; the governing body is accountable to the Minister and the Director General under the School Education Act as well as to other authorities under other legislation.

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.

Director General's considerations

Either the constitution or another board-endorsed document should make a clear distinction between the role of the principal – being the day-to-day management and control of the school – and that of the governing body – being overall governance and ultimate responsibility. Provided there is a clear separation, the Director General will not dictate which responsibilities should be allocated to each role with the exception of non-delegable duties and accountabilities.

The principal's job description should also make clear that his or her role is day-to-day management on behalf of and subject to the overall direction of the governing body. An organisation structure may also assist the Director General to understand how various responsibilities are managed, delegated and

⁶ Robert I. Tricker, 1998, *Pocket Director*, p. 8.

▶ 6. GOVERNING BODY ACCOUNTABILITY

accounted for in the school.

Legislation and context

Section 160(1)(f) of the School Education Act requires the Director General to take into account whether a governing body will be accountable for four specified matters:

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.

Accountability does not require that the governing body itself perform these roles. It must, however, take ultimate responsibility and establish to the Director General's satisfaction that it has the necessary oversight, information and capacity to do so.

Supporting evidence

The following may be requested as evidence of accountability for the school's strategic direction:

- The school's strategic plan endorsed by the governing body.

The following may be requested as evidence of accountability for the school's student learning improvement plans:

- The school's improvement plan endorsed by the governing body.
- The principal's National Quality Standard internal audit as submitted to the governing body.
- A curriculum evaluation policy endorsed by the governing body which explains how and when curriculum delivery and teaching methods are evaluated.
- Where applicable, an online-only learning policy endorsed by the governing body which outlines how the school will ensure that students participating online receive a standard of education equivalent to that provided for students attending in person.

The following may be requested as evidence of accountability for financial management:

- The schedule of financial delegations in place from the governing body to the principal, business manager and/or bursar as applicable and the curriculum vitae of each delegate.
- The annual schedule of the financial reports provided to the governing body.
- Annual Business Plan endorsed the governing body.
- Policies and procedures applicable to conflicts of interest in decision-making on financial matters by governing body members, the principal or the business manager/bursar.

The following may be requested as evidence of accountability for legal compliance:

- Declaration of legal compliance.

The following may be requested as evidence of the governing body's capacity to be accountable:

- Documentation evidencing the qualifications, expertise and/or experience of governing body officers and ordinary members as relevant to operating a school.
- Evidence of training opportunities offered to and undertaken by members of the governing body.
- Governing body meeting agendas and minutes together with reports received and considered (typically for the previous 12 months).

Explanatory notes

Strategic plan

The school's strategic plan should outline the future direction for development of the school and be endorsed by the governing body. It is for the school to determine the size of any such plan, based on the level of detail deemed appropriate to the school context. Evidence could include how the strategic plan has been discussed at a governing body and management level.

Provision of a strategic plan demonstrates the governing body's commitment to its educational philosophy as outlined in its constitution and its leadership in setting future directions and priorities in the development of the school.

Improvement plan

The school improvement plan describes the priorities identified through analysis of student learning (achievement, progress and engagement) and the strategies to improve teaching and learning. This plan is linked to evaluation reports about curriculum implementation and the quality of educational programmes provided by the school.

National Quality Standard audit

All principals in Western Australia are required to undertake an annual National Quality Standard (NQS) internal audit with a view to continuously improving the quality of the educational experience in the early years (Pre-Kindergarten to Year 2). Early childhood staff use the NQS to reflect on and determine the quality of their programmes and to identify priorities for improvement. This is to be completed by the end of first semester each year. The principal conducts an annual NQS internal audit on each of the seven quality areas, determining whether the school's early years programme and practices meet or are working towards the NQS in each quality area (see Chapter 7). A record of the principal's findings must be retained and produced as evidence on request together with evidence that the governing body has been advised of the findings. The principal considers whether to recommend to the governing body that the priorities for improvement identified by the early years staff should be included in the whole-school improvement plan.

Curriculum evaluation

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 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?

Legal compliance

The Act no longer requires the regulator to be satisfied that the governing body complies with applicable laws. Rather it requires the Director General to be satisfied that the governing body will be accountable for compliance with applicable laws. Completion of a declaration of legal compliance will evidence the governing body's acceptance of accountability.

Relevant legislation includes, but is not limited to, the following:

WA Acts/Regulations

- *Associations Incorporation Act 2015*
- *Building Act 2011*
- *Children and Community Services Act 2004*
- *Criminal Code 1913*
- *Education Service Providers (Full Fee Overseas Students) Registration Act 1991 and Regulations 1992*
- *Equal Opportunity Act 1984*
- *Family Court Act 1997*
- *Food Act 2008 and Food Regulations 2009*
- *Health (Miscellaneous Provisions) Act 1911 and Regulations (various years)*
- *Occupational Safety and Health Act 1984 and Regulations 1996*
- *School Curriculum and Standards Authority Act 1997*
- *Teacher Registration Act 2012*
- *Vocational Education and Training Act 1996*
- *Volunteers and Food and Other Donors (Protection from Liability) Act 2002*
- *Working with Children (Criminal Record Checking) Act 2004 and Regulations 2005*

Australian Acts/Regulations/Standards

- *Age Discrimination Act 2004*
- *Australian Curriculum, Assessment and Reporting Authority Act 2008*
- *Australian Education Act 2013 and Australian Education Regulation 2013*
- *Australian Human Rights Commission Act 1986*
- *Disability Discrimination Act 1992*
- *Disability Standards for Education 2005*
- *Education Services for Overseas Students Act 2000 and Regulations 2001*
- *Education Services for Overseas Students (TPS Levies) Act 2012*
- *Fair Work Act 2009*
- *National Code of Practice for Providers of Education and Training to Overseas Students 2007*
- *Privacy Act 1988*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*
- *Superannuation Guarantee (Administration) Act 1992*
- *Trade Practices Act 1975*
- *Work Health and Safety Act 2011*

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 relevant authority to have breached an applicable law will be expected to take appropriate steps to avoid future breaches.

Information on key legal obligations can often be found on regulatory authority websites. For example, the Department of Mines, Industry Regulation and Safety has published *INC: A Guide for Incorporated Associations in Western Australia; Guide to the Buildings Approvals Process in Western Australia; Building Regulations 2012-Explanatory Guide; Guidance Note-General Duty of Care in Western Australian Workplaces*; and the *WorkSafe Plan-Information and workbook*.

Evidence of capacity

Documentation evidencing the relevant qualifications, expertise and/or experience of governing body officers and ordinary members may include the curriculum vitae of the governing body chair, the principal, each committee chair and the business manager/bursar, for example. The capacity of a governing body to be accountable and comply with applicable laws, orders and notices will be influenced not only by its track record but also by the qualifications, skills, expertise and experience of its leadership group.

Incompetent educational leadership may also mean the Director General cannot be satisfied about the governing body being accountable for planning to achieve improvements in student learning. If the educational leaders are unable to develop and implement effective processes, that may indicate the governing body is not accountable under s. 160(1)(f)(ii).

Provision of training opportunities for members of the governing body should 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.

A sample of meeting agendas and minutes, including reports received, may provide good evidence of the way in which the governing body has been carrying out its responsibilities for financial management, legal compliance, strategic planning and the continuous improvement of student learning.

Director General's considerations

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 improving 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 has not complied with the conditions prescribed by the Commonwealth or State Government for the use of and accounting for student grants or capital funding;
- it has been found by the responsible authority to have breached an applicable statute or regulation; or
- it has been found to have unlawfully discriminated against a student or prospective student;
- it does not review and monitor financial performance with the tabling of monthly management reports at regular governing body meetings; or
- it does not establish a yearly budget and business plan incorporating financial forecasts for a period of three to five years endorsed annually by the governing body.

Note that each governing body has other roles under the Act which also come under the broad heading of accountability. They include:

- making applications and giving the notices required by the Act [e.g. s. 156B];
- ensuring that conditions imposed on registration and directions given by the Director General are complied with [s. 165(4) and s. 166(4)];
- complying with notices issued by the Minister or Director General [e.g. s. 156C].

The Director General must also 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 the four matters set out in 160(1)(f) of the School Education Act.

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

7. STANDARD OF EDUCATION

Legislation and context

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 of the relevant registration standards are observed, a school nevertheless does not provide a satisfactory standard of education for its students.

Supporting evidence

The following may be requested:

- The school's National Quality Standard internal audit for Pre-Kindergarten to Year 2.
- The school's policy for the review of student learning.
- Student learning outcomes.
- The school's analysis of student learning against individual, school and national expectations.
- The school's curriculum planning documentation for ensuring that teaching and learning programmes will meet the diverse learning needs of the students.
- Documentation of adjustments made to enable students with disabilities to participate on an equal basis.
- Documented Education Plans for any students in the care of the Director General of the Department of Communities.
- 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.

Explanatory notes and definitions

National Quality Standard audit

The school's National Quality Standard (NQS) internal audit evaluates the extent to which the school's early childhood delivery is meeting the NQS in addition to observing the relevant regulation standards. In respect of each of the seven Quality Areas, questions are posed and evaluated as follows:

- Quality Area 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?
- Quality Area 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?
- Quality Area 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?
- Quality Area 4 – staffing arrangements: are the early childhood educators mutually respectful and working as a team?
- Quality Area 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?
- Quality Area 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?

- Quality Area 7 – leadership and service management: does the school have a positive organisational culture which promotes learning; does it have a commitment to continuous improvement and effective administrative systems?

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 is to outline 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 do better?' These judgements are made against individual, school 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.

The analysis is to be included in reports to the school's governing body to enable it to carry out its responsibility for ensuring that effective processes to plan for, monitor and achieve improvements in student learning are developed and implemented [s. 160(1)(f)(ii)].

Differentiated 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* 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].

It is expected that Documented Education Plans will be developed and implemented for all students in the care of the Director General of the Department for Communities.

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 students whose unexplained absences are higher than the levels the school is expected to achieve for State funding purposes.

Director General's considerations

Consideration of the standard of education will apply a global test which is school and context specific. Schools are required to consider all elements of the standard (i.e. quality) of education. Compliance with relevant standards, such as the curriculum, staff to student ratio, premises and other standards, will not be sufficient to satisfy the Director General if the quality of the educational provision is otherwise deficient.

Policies and procedures related to the provision of a quality education must meet the registration standards where applicable, comply with any applicable State and Commonwealth laws, be fully implemented, be endorsed by the governing body and be effectively disseminated to staff, students and parents. Relevant policies and procedures are to be reviewed following every event affecting their implementation and amended as needed.

Note that all students are entitled to receive a satisfactory standard of education whether attending the school in person or participating in online-only learning.

The capacity of the governing body and senior staff to implement the school's educational 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 education, such as where the application is for initial registration. Information relevant to the capacity of the leadership team is referred to in Chapter 6. Poor educational leadership would undermine the Director General's satisfaction in the standard of education.

8. LEVELS OF CARE

Legislation and context

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 the children concerned. While the registration standards require a number of policies and other protections for students' health, safety and wellbeing, this provision is wider. It could enable the Director General to conclude that even if all of the relevant registration standards are observed a school nevertheless does not provide satisfactory levels of care for its students.

Supporting evidence

The following may be requested:

- Child-safe environment policies and procedures and evidence of implementation.
- Student welfare policies and procedures and evidence of implementation.
- Student safety policies and procedures and evidence of implementation.
- 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.
- Evidence of compliance with the *Disability Standards for Education 2005* for students with disabilities.
- Evidence of risk management relating to provision of satisfactory levels of care.
- The school's student recruitment policy and procedures.

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.

Explanatory notes

Child-safe procedures

Child-safe policies and procedures may replace a school's previous student health, safety and welfare policies or complement them. Child-safe policies and procedures consider the following domains.

- Leadership, governance and culture.
- Empowering children to participate.
- Involving family and community.
- Child-safe and child-friendly policies.
- Managing staff and volunteers.
- Safe environments – physical and online.
- Child-friendly complaint process and reporting.
- Education and development.
- Continuous improvement.

Student welfare

Policies and procedures related to student welfare include child protection (including mandatory reporting); privacy principles; internet and mobile phone usage including social media; parent/guardian access arrangements; and maintaining appropriate relationships between staff and students.

Section 124B of the *Children and Community Services Act 2004* makes individual teachers, boarding supervisors and nurses, among others, personally responsible for making a written report directly to the Department of Communities (Child Protection and Family Support division) in the following circumstances:

- a. if he/she believes on reasonable grounds that a child has been the subject of sexual abuse or is the subject of ongoing sexual abuse; and
- b. he/she forms the belief in the course of his/her work (paid or unpaid).

Teachers, boarding supervisors and school nurses must make a report of the belief as soon as practicable after forming the belief. Penalty: a fine up to \$6,000.

Student safety

Policies and procedures related to student safety are to cover emergency management plans such as catastrophic weather warnings, bushfire preparedness and evacuation (if appropriate); lockdown procedures; critical incident plans; on-site water-based activities (if applicable); and supervision of off-site activities – including school excursions, water safety, workplace learning and vocational education and training (VET).

Management plans for student safety must be prepared for students engaged in off-site VET, workplace learning and/or community service programmes. In the case of Pre-Kindergarten and Kindergarten students, an excursion risk assessment is to be no older than 12 months⁷, and this is a sound policy which should apply to all excursions and off-site activities.

Bullying and harassment

Schools may deal separately with bullying and/or harassment of and among students as a disciplinary matter or as part of a behaviour management policy. Whether dealt with separately or as part of another policy, the policy on bullying and/or harassment should be consistent with the guidelines agreed by all Australian Education Ministers and published on the [Safe Schools Hub website](#).

The Director General has adopted the national definitions of bullying, harassment and violence available on the Australian Government websites studentwellbeinghub.edu.au and bullyingnoway.gov.au and expects schools to adopt these or 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).

- *Violence* is the intentional use of physical force or power, threatened or actual, against another person(s) that results in psychological harm, injury or in some cases death. Violence may involve provoked or unprovoked acts and can be a single incident, a random act or can occur over time.

⁷ Consistent with the standard for centre-based education and care services - formerly known as long day care services: *Education and Care Services National Regulations 2012* (WA), reg. 100(4).

Positive school culture

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.

Catastrophic weather events

Each registered school must have in place policy and procedures for managing risks associated with bushfires and catastrophic weather events. These are to be:

- appropriate to the context of the school (including location and the level of bushfire and/or catastrophic weather conditions risk);
- regularly communicated to and understood by staff, students and the school community; and
- clear in outlining how the school intends to act in an emergency including with other schools and co-ordinating government agencies.

Bushfire Management Guidelines are available from the Association of Independent Schools Western Australia (AISWA). Schools may also wish to consider the appointment of an independent bushfire consultancy firm to provide a bushfire management plan. Additional advice in relation to Catastrophic Weather Warnings, bushfire preparedness and school evacuation can be sought from the Department of Fire and Emergency Services (DFES), the local government authority or AISWA.

The DFES website may also provide complementary information on risk minimisation. DFES publications are recommended for consideration in any planning undertaken by the school.

Student health

Policies and procedures related to student health include arrangements for ill students, administration of medication, management of students with allergic reactions (including anaphylaxis), management of medical conditions (including records), communicable and infectious diseases, food and nutrition, sun protection, smoking, substance abuse and first aid. Schools with canteens should also provide evidence they meet local government health requirements.

Students with disabilities

The *Disability Standards for Education 2005* require schools to make reasonable adjustments to the support services provided so that students with disabilities can access them on an equal basis unless to do so would cause the school unjustifiable hardship [s. 7.2]. The Director General may therefore require evidence of appropriate support and protection for students with disabilities, developed in consultation with each student and/or their parents/guardians [s. 7.2] and provision of the selected reasonable adjustment within a reasonable time after the enrolment of the student [s. 3.7].

Schools are also required to ensure that students with disabilities are free from harassment, defined as “an action taken in relation to the person’s disability that is reasonably likely, in all the circumstances, to humiliate, offend, intimidate or distress the person” [s. 8.1]. Therefore, they must develop and implement strategies and programmes to prevent harassment or victimisation of a student with a disability or a student with a parent or other relative (known as ‘associates’) with a disability [s. 8.3(1)].

Schools are further required to take reasonable steps to ensure that staff and students are informed about:

- (a) the obligation not to harass or victimise students with disabilities, or students who have associates with disabilities; and
- (b) the appropriate action to be taken if harassment or victimisation occurs; and
- (c) complaint mechanisms available to a student who is harassed or victimised in relation to a disability of the student or an associate of the student [s. 8.3(2)].

Risk management

Systematic and relevant proactive risk management must be developed to ensure that the school is meeting its obligations and duties for the health, safety and welfare of students. Schools may choose to use external agencies or specialist providers to assist in the identification and resolution of risk issues. Documents such as audits and plans to manage risk provide relevant evidence.

Student recruitment

The school's student recruitment policy must ensure that the school has the capacity to cater for each student's specific learning needs and wellbeing. This requires that relevant information is obtained about each student on enrolment, 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.

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 the children's safety, wellbeing and care. Compliance with relevant standards, such as the premises, facilities, critical incidents and behaviour management standards, will not be sufficient to satisfy the Director General if the levels of care are otherwise inadequate.

Policies and procedures related to the care, safety and welfare of students must meet the registration standards where applicable, comply with any applicable State and Commonwealth laws, be endorsed by the governing body and be effectively disseminated to staff, students and parents. Relevant policies and procedures are to be reviewed following every event affecting their implementation and amended as needed.

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.

The school's governing body is expected to undertake comprehensive risk audits in relation to child safety. Teachers, boarding supervisors and school nurses, if any, are expected to receive training biennially in their mandatory reporting obligations. Training must address and assess understanding of mandatory reporting legislation, how to recognise and respond to child sexual abuse and how to make a mandatory report.

The capacity of the governing body and senior staff to implement the school's student welfare 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. Information relevant to the capacity of the leadership team is referred to in Chapter 6. Incompetent day-to-day management may undermine the Director General's satisfaction about levels of care.

▶ 9. SCHOOL PLANNING PROPOSAL

Legislation and context

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.

Supporting evidence

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.

Explanatory notes

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 clause 4 of the *Advance Determination Policy Direction*) when the advance determination was granted by the Minister. These are, briefly:

- contribution to the diversity of schools;
- likely adverse effects on existing schools in the same catchment;
- likely adverse effects on existing school planning proposals with an advance determination in force;
- sustainability of the proposal;
- community opinion;
- any impacts on infrastructure, services and resources;
- governing body's capacity to comply with relevant laws; and
- governing body's actual or prospective financial resources.

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.

Director General's considerations

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.

The Director General *may* decide to approve an application even if the proposal has materially changed since the advance determination was granted. However, where such an approval would deny to another school the opportunity it should have been given during consideration of the advance determination application to object to the proposal, the Director General will reject the registration application. Should the school wish to proceed, a new advance determination would be required in these circumstances.

▶ 10. INTERNATIONAL STUDENTS

Legislation and context

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) Act 1991* (ESPRA) and the *Education Service Providers (Full Fee Overseas Students) Regulations 1992* and the Commonwealth's *Education Services for Overseas Students Act 2000* (ESOS Act) and the *Education Services for Overseas Students Regulations 2001*. 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).

Explanatory notes and terms used

- CRICOS – the Commonwealth Register of Institutions and Courses for Overseas Students.
- 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 or secondary visa holder – 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 Australian Government 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.

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 underpinning 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 discretion to determine whether a school has demonstrated compliance with the international education legislation and requirements rests with the Director General as a delegate of the Commonwealth Department of Education and Training.

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 during its application for initial registration, or for renewal of 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 of Education and Training about the education provider and its courses. The school may commence delivering courses in Western Australia upon receipt of approval. The name of the school's legal entity, which may differ from the name of the governing body, and its business name are recorded on CRICOS.

▶ 11. THE APPLICATION PROCESS

Legislation and context

The Director General is responsible for three kinds of applications concerning Independent schools. The Minister has delegated responsibility for these applications when they affect 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:

- made within the timeframe set out in the Act;
- made in writing on the approved application form; and
- if required (i.e. for initial registration and any registration change defined as significant), attaching 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 (see Chapter 9).

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 established 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)].

In the case of applications for renewal of registration, a risk assessment will guide the Director General's decision-making as to what further information is required. These applications will be 'made' when Parts A and B of the application form are completed. Part C will set out the request for further information.

Site visits

The Director General will usually request that a panel of independent school reviewers visit the school or proposed site and meet with the applicant, governing body members and staff. 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. Where possible, a substantial period of notice will be given. Close to the date of the site visit, the panel chair will contact the applicant governing body chair or school principal to discuss the focus of the visit and develop an agenda.

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 lifted [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 usually 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 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 the offending premises or facility (or equivalent) 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 the 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 of the Director General to evaluate these matters will not prevent the Director General from registering the school or approving the change if the Director General is satisfied, based on the available information and the capacity of the school's leadership, that these matters will be satisfactory once operational.

If the Director General decides to approve an application for initial registration or significant registration change, a condition (or conditions) will generally be imposed about any matter where the school is unable to provide sufficient information (such as the safety of completed premises, staffing, etc). This is often the case for matters that are generally not finalised until a school or campus is almost ready to commence.

Refusal of application

The Director General will generally refuse an application when not satisfied that the governing body has the capacity to comply with one or more limitations. In addition, in the case of initial registration or registration change applications, the Director General may refuse the application if of the opinion that approving the proposal poses a significant risk to the education, care and/or safety of children at the school. Examples of significant risks are:

- the proposal is likely to overextend the the school's resources putting at risk its financial viability and hence the sustainability of its educational provision;
- the application is premature because development approval has not been obtained;
- 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.

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 one or more limitations or to 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 of the applicant's receipt of the Director General's 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 posting it (i.e. the original) to the Department [s. 163A].

▶ 12. OTHER GOVERNING BODY OBLIGATIONS

Legislation and context

One way in which the School Education Act assists the Director General to monitor continuous compliance with the registration standards and other requirements by governing bodies and schools is to require governing bodies to provide information. This chapter summarises these requirements.

New governing body members

The Act requires the governing body to notify the Director General no later than 30 days after any change to the membership of the governing body – whether that change involves members leaving or members being added or both [s. 156B(1)(b)]. This applies to all categories of membership. 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](#). 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 amendments

Any change to a governing body's constitution, including its entire replacement, is also to be notified to the Director General no later than 30 days after the change is made [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](#). The notice is to 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)]. A school may request an extension of time provided the request is made 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)].

▶ APPENDIX

School Education Act 1999

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 are to take effect on and from 1 July 2018. **Bolded** 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; or
 - (b) a programme of study meeting the needs of the student delivered through an Individual Education Plan.
- 1.3** Curriculum for students in the twelfth and thirteenth 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) or Cambridge International A Levels or International Baccalaureate Diploma or another qualification approved by the **Director General**; and/or
 - (b) provides a programme of study meeting the needs of an individual 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 otherwise approved by the **Director General** 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 children;
 - (b) at least one **early childhood teacher** is present for every 30 students or fewer; and
 - (c) an **early childhood teacher** is in attendance at all times that students are present.

STANDARD 3: DAYS AND HOURS OF INSTRUCTION

- 3.1** Unless otherwise approved by the **Director General** and subject to standard 3.2, the school provides at least the **minimum hours of instruction** prescribed for government schools.
- 3.2** 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.

STANDARD 4: STAFF

- 4.1** The school ensures all staff and volunteers are compliant with the requirements of the *Working with Children (Criminal Record Checking) Act 2004*, *Working with Children (Criminal Record Checking) Regulations 2005*, *Teacher Registration Act 2012* and *Teacher Registration (General) Regulations 2012*.
- 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 otherwise approved by the **Director General**:
- (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;
- (c) there are staff on the premises with the following: a current approved first aid qualification; current approved anaphylaxis management training; and current approved emergency asthma management training; and
- (d) a record is kept of the person responsible for each class at any time and who was working with the students at any time.
- 4.3** The school implements a Staff **Code of Conduct** for all staff, including boarding staff if relevant, which:
- (a) includes guidelines on how to comply with it;
- (b) clearly delineates the boundaries between appropriate and inappropriate interactions between students and adults; and
- (c) requires all staff to report objectively observable behaviour which is not permitted by 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.
- 4.4** The school provides all new staff, including new boarding staff if applicable, as soon as practicable following their appointment, an induction covering:
- (a) the Staff **Code of Conduct**;
- (b) staff obligations to report objectively observable behaviour which is not permitted by the Code;
- (c) the school's policies and procedures for the prevention, detection and reporting of suspected and actual **grooming** and sexual abuse;
- (d) the mandatory reporting obligations of teachers and boarding supervisors; and
- (e) all other school policies and procedures.
- 4.5** The school ensures all staff:
- (a) 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; and
- (b) participate in professional learning covering the Staff **Code of Conduct**, their mandatory reporting obligations and all school policies and procedures at least biennially.

STANDARD 5: PREMISES

- 5.1 The premises are safe, well-maintained, sufficient and appropriate for the delivery of the curriculum to students in the year levels for which the school seeks registration or has been registered and for the number of students enrolled.
- 5.2 Unless otherwise approved by the **Director General**, 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 and for boarding students are appropriate, safe, well-maintained and sufficient for the number accommodated.

STANDARD 6: FACILITIES

- 6.1 The facilities used by the school, including vehicles if any, are fit for purpose, safe, hygienic, well-maintained, sufficient and appropriate for the delivery of the curriculum to students in the year levels for which the school seeks registration or has been registered and for the number of students intended to use them.
- 6.2 The school provides such **ancillary support** as is necessary to ensure equity of access to educational programmes for all students enrolled.

STANDARD 7: THE NUMBER OF CHILDREN IN EACH YEAR LEVEL

- 7.1 The number of students in each year level is sufficient to sustain delivery of the approved curriculum and provide the necessary **ancillary support**.

STANDARD 8: THE ENROLMENT AND ATTENDANCE PROCEDURES

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

STANDARD 9: CRITICAL AND EMERGENCY INCIDENTS

- 9.1 The school has and implements a **critical and emergency incidents** policy and procedures which:
 - (a) define **critical and emergency incidents** consistently with these standards;
 - (b) require all **critical and emergency incidents** to be reported and documented;
 - (c) enable and require the principal to notify the governing body of all **critical and emergency incidents**;
 - (d) enable and require **critical and emergency incidents** to be managed in such a way as to give highest priority to the best interests of the student or students affected.
- 9.2 The governing body ensures the **Director General** is notified as soon as practicable, and in any event within 48 hours of the incident, using the Critical and Emergency Incident Report form available at <http://www.des.wa.gov.au>

STANDARD 10: BOARDING

- 10.1 Staff employed to supervise the boarders are competent, fit and proper persons, qualified to manage their care, welfare and needs and compliant with the Working with Children (Criminal Record Checking) Act 2004.
- 10.2 The school maintains open and effective communication with the parents and guardians of boarders.
- 10.3 The boarders receive a well-balanced and nutritious diet.

STANDARD 11: COMPLAINTS

- 11.1** The school has and implements policies and procedures for receiving and handling complaints, including complaints from students, which are child-friendly, publicised and readily accessible to all members of the school community.
- 11.2** Complaints are handled promptly, objectively, fairly and confidentially, remedies are provided when complaints are upheld and there is a system for review.
- 11.3** Reports, complaints and allegations are recorded in such a way as to enable the detection of any patterns emerging over time.
- 11.4** Complaints from former students and/or their parents or guardians are accepted and dealt with in accordance with this standard despite enrolment of the student having ceased.

STANDARD 12: PREVENTING AND RESPONDING TO CHILD ABUSE

- 12.1** The school implements policies, procedures, practices and strategies for the prevention of **grooming** and **child abuse**, including for boarding facilities if applicable, which are informed by an authoritative and context-appropriate child-safe organisation framework, approved by the governing body, reviewed annually and updated in light of experience and relevant research, including at least:
- (a) arrangement of all premises and implementation of policies and procedures to deter inappropriate interactions and facilitate detection;
 - (b) staff recruitment practices which:
 - engage only those who are suitable to work with students; and
 - make every attempt to assess commitment to the Staff **Code of Conduct** on the part of applicants;
 - (c) annual professional learning for all staff on the recognition of **grooming** and **child abuse** and appropriate prevention practices and strategies;
 - (d) delivery to all students of a developmentally appropriate protective behaviours curriculum, developed by experts in **child abuse** prevention, and covering what the boundaries are between appropriate and inappropriate interactions and when, how and whom to tell when a boundary is crossed;
 - (e) a **code of conduct** for students which sets out minimum standards of conduct, prohibits bullying, harassment and other forms of peer-to-peer abuse and requires respect for the privacy and human dignity of other students and boarders where relevant; and
 - (f) provision of information to parents and guardians about the protective behaviours curriculum, the Staff **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.
- 12.2** Procedures for the detection and reporting of Staff **Code of Conduct** breaches, **grooming** and **child abuse**, at the school or boarding facility if relevant, include at least the following requirements:
- (a) that staff must understand and comply with their mandatory reporting obligations;
 - (b) in cases where a former student, or the parent or guardian of a former student, makes an allegation about child sexual abuse at the school occurring before 2009, the Department of Communities Child Protection Service is to be informed immediately;
 - (c) that victimisation of staff, students, parents and guardians for making an allegation in accordance with the school's policy, is forbidden, including where the allegation is unfounded; and
 - (d) that the governing body ensures that actual breaches of the Staff **Code of Conduct**, where there are reasonable grounds to suspect **grooming**, are reported to the **Director General** in accordance with standard 9.2.

- 12.3** The school responds appropriately to allegations of Staff **Code of Conduct** breaches, **grooming** and **child abuse** in the best interests of students and in accordance with a policy and procedure which at least requires that:
- (a) the governing body and principal comply with their legal and professional obligations;
 - (b) in the case of an allegation of **grooming** or **child abuse** by current or former staff, the complainant is informed about the services, including **advocacy and support services**, which may be available; and
 - (c) consultation is undertaken with the relevant government authorities to determine when, what and by whom information related to an allegation of **child abuse** and its investigation may be given to the person against whom the 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 13: FINANCIAL RESOURCES

- 13.1** The school is financially viable.
- 13.2** 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 necessary **ancillary support**.

STANDARD 14: MANAGEMENT OF STUDENTS' BEHAVIOUR

- 14.1** 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.
- 14.2** The use of any form of **child abuse**, **corporal punishment** or other **degrading punishment** is explicitly forbidden, and these terms are defined in accordance with these standards, in appropriate school publications and the Staff **Code of Conduct**.
- 14.3** The administration of permitted forms of behaviour management, discipline or punishment conforms to the principles of procedural fairness and the prohibition of **unlawful discrimination**.

STANDARD 15: MINIMUM AGE OF ENROLMENT

- 15.1** Unless the **Director General** provides approval in advance, 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.
- 15.2** A **CARE school** does not permit any child to be enrolled before the eighth year of their **compulsory education period**.

STANDARD 16: DELIVERY OF THE CURRICULUM

- 16.1** The provision of educational programmes exclusively by means of **online-only learning** is restricted to students who are **geographically isolated**, temporarily living or travelling overseas, participating in elite performance in sport or the arts, or unable to attend at a school due to illness, bail conditions or another special circumstance acceptable to the **Director General**.

STANDARD 17: NUMBERS OF CHILDREN ENROLLED

- 17.1** 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

Advocacy and support services

Advocacy and support services are those 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.

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 those students. It may include, for example:

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

CARE school

A school established and registered solely for the education of students at **educational risk**.

Child abuse

Four forms of child abuse are covered by WA law:

- 1) Physical abuse occurs when a child is severely and/or persistently hurt or injured by an adult or a child's caregiver.
- 2) Sexual abuse, in relation to a child, 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 includes failure by a child's parents to provide, arrange or allow the provision of:
 - a) adequate care for the child; or
 - b) effective medical, therapeutic or remedial treatment for the child.

Code of conduct

A code of conduct promotes positive work practices and establishes expectations for personal and professional boundaries concerning appropriate and inappropriate behaviour in relation to staff, students, volunteers, parents and guardians. It provides guidance about behaviour, relationships, attitudes and responsibilities and outlines the process that will be followed if the code is not observed.

Complainant

For the purposes of standard 12.3, the complainant is the student or former student against whom the alleged **grooming** or **child abuse** is claimed to have been committed.

Compulsory education period

A child's compulsory education period is from the beginning of the year in which the child reaches the age of 5 years and 6 months until either the end of the year in which the child reaches the age of 17 years and 6 months or the day on which the child reaches the age of 18, 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: from UN Committee on the Rights of the Child, General Comment No. 8 (2006), paragraphs 11 and 15: CRC/C/GC/8, 2 March 2007.

Critical and emergency incidents

- Death, or life-threatening injury, of a student or staff member at school, or following an incident that occurred at the school, or through a related school-based activity or circumstance;
- Circumstances that pose a critical risk to the health or safety of one or more students or staff;
- Receipt of an allegation of **child abuse**, including but not limited to sexual abuse, committed against a student by a staff member or student, or another person on the school premises or during school-related activities, whether the abuse is alleged to have occurred recently or in the past;
- Issuing a formal warning to a staff member or ceasing the employment of a staff member for a breach of the Staff **Code of Conduct** suspected to be **grooming** behaviour;
- Any incident requiring school closure, lockdown, or a reduction in the number of students or staff attending.

A circumstance posing a "critical risk" for the purposes of this definition is one which would, if action had not been taken or the risk otherwise averted, have resulted in death, life-threatening illness or life-threatening injury to one or more students and/or staff.

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 (from 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 of the Department of Education.

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 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.

Early childhood teacher

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

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.

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. The early education period is defined in the *School Education Act 1999*, section 4.

Geographically isolated

A student is geographically isolated for the purposes of eligibility for enrolment in **online-only learning** if the student is unable to attend a school that meets his or her educational, 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 prohibiting exposure.

Minimum hours of instruction

- (a) For kindergarten students, at least 11 hours during each week in which the school is open for instruction.
- (b) For pre-primary students, at least 25 hours and 50 minutes each week the school is open for instruction and not less than 4 hours and 10 minutes each day the school is open for instruction.
- (c) Notwithstanding paragraph (b), for pre-primary students in receipt of a curriculum recognised under section 9(1)(e)(v) of the *School Curriculum and Standards Authority Act 1997*, the hours of instruction are as directed by the principal, but must be at least 15 hours per week.
- (d) For primary and secondary students, at least 25 hours and 50 minutes each week the school is open for instruction and not less than 4 hours and 10 minutes each day the school is open for instruction, unless otherwise approved by the **Director General**.

Online-only learning

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 the child reaches the age of 4 years and 6 months until the end of that year (*School Education Act 1999*, section 5).

Unlawful discrimination

Discrimination in education as defined in the *Equal Opportunity Act 1984* (WA), *Racial Discrimination Act 1975* (Cth), *Sex Discrimination Act 1984* (Cth), *Disability Discrimination Act 1992* (Cth) and *Age Discrimination Act 2004* (Cth).

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