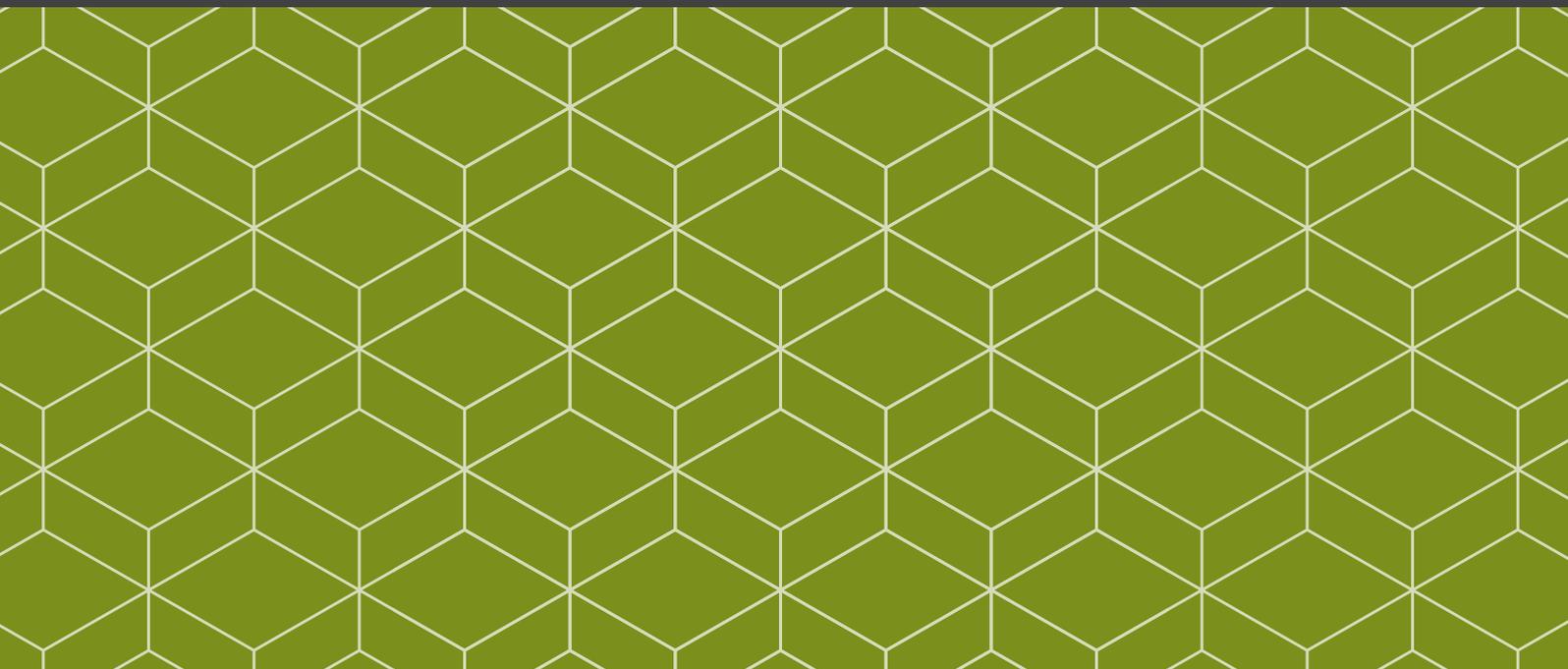




**Department of Education Services  
Non-Government Schools**

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



### **This version of the Guide reflects the following:**

- The standards determined by the Minister for Education under s. 159(1) of the *School Education Act 1999* (the Act) to take effect from 1 January 2017. These include the new 'child abuse prevention' standard made under s. 159(1)(l) of the Act.
- The introduction of the National Quality Standard for Early Childhood Education and Care as appropriate to school settings and agreed by the education systems and sectors in Western Australia.
- The distinction between the standards determined by the Minister and the other requirements which the Director General of the Department of Education Services (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 information in this Guide has been developed in consultation with the Association of Independent Schools of Western Australia and Catholic Education Western Australia to provide information on the registration standards and other requirements for non-government schools in 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 Services about registration of Independent schools. The registration standards have been determined by the Minister for Education under s. 159(1) of the *School Education Act 1999*; 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 are also applicable to Catholic system schools.

## The registration standards

The registration standards determined by the Minister for Education are covered in Chapter 4. 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, include:

- 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 he is satisfied and that assessment requires him 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'.

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.

## 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.

## 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 for Education [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 he 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: The following defined terms are indicated as follows when used in the text: term.

**Advocacy and support:** acting alongside, or on behalf of, victims and survivors of child sexual abuse to support their rights and interests while providing tangible and practical support.

**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.

### Child abuse:

- (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*].

**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:**

- circumstances that pose a critical risk to the health, safety or wellbeing of one or more students or staff;
- incidents requiring school closure, lockdown, or reduction of number of students or staff attending;
- death, or 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;
- receipt of an allegation of child abuse, including but not limited to sexual abuse, against a student by a staff member or student or other person, 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.

**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].

**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:

- (1) listed as an early childhood teaching qualification on the website of the Australian Children's Education and Care Quality Authority (ACECQA); and
- (2) either listed as an Initial Teacher Education Programme (ITEP) on the website of the Australian Institute of Teaching and School Leadership (AITSL) or approved by the Teacher Registration Board of Western Australia (TRBWA) as equivalent to an ITEP.

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

**Grooming:** actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child, to lower the child's inhibitions in preparation for engaging in sexual activity with the child.

**Online distance learning:** the provision of educational programmes using information and communication technologies (ICTs) where limited or no face-to-face contact or on-site attendance at a school is involved.

**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.

**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).

**Staff 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.

**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). The WA Act makes discrimination in education unlawful on the following grounds: race including colour, descent, ethnic or national origin or nationality, religious conviction, political conviction, sex (unless the school or boarding accommodation is established for students of one sex only), marital status, pregnancy, breast feeding, gender history, sexual orientation, age, family responsibility, family status, impairment, together with racial and sexual harassment. The Act defines most of these terms [in s. 4]. A school conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed may discriminate in favour of adherents in good faith but must not discriminate among them on the ground of race, impairment or age [s. 73(3)]. Discrimination includes both direct and indirect forms but usually does not include measures designed to achieve equality or address special needs. Where accommodating the needs of a student with an impairment would cause unjustifiable hardship, discrimination against that student may be excused [s. 66(4)].

The Commonwealth Acts make discrimination in the provision of education unlawful on the following grounds: race, colour, descent, national origin, ethnic origin, disability (in the absence of unjustifiable hardship), age, sex (unless the institution is single-sex), sexual orientation, gender identity, intersex

status, marital or relationship status, pregnancy or potential pregnancy, breastfeeding. They also cover sexual harassment and offensive behaviour based on racial hatred. As in the WA Equal Opportunity Act, discrimination includes both direct and indirect forms. Generally there is also an exemption for educational institutions conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed to allow it to discriminate in good faith so as to avoid injury to the religious susceptibilities of adherents of that religion or creed.

### Acronyms and abbreviations

<b>ACECQA</b>	Australian Children’s Education and Care Quality Authority
<b>AISWA</b>	Association of Independent Schools of Western Australia
<b>C.A.R.E. school</b>	Curriculum and Re-engagement in Education school
<b>CPFS</b>	Department for Child Protection and Family Support
<b>CRICOS</b>	Commonwealth Register of Institutions and Courses for Overseas Students
<b>Cth</b>	Commonwealth (used in reference to federal legislation)
<b>DFES</b>	Department of Fire and Emergency Services
<b>DoE</b>	WA Department of Education
<b>ESOS Act</b>	<i>Education Services for Overseas Students Act 2000 (Cth)</i>
<b>ESPRA</b>	<i>Education Service Providers (Full Fee Overseas Students) Registration Act 1991 (WA)</i>
<b>National Code</b>	<i>National Code of Practice for Providers of Education and Training to Overseas Students 2007</i> (a legislative instrument made under the ESOS Act)
<b>OSH</b>	Occupational Safety and Health
<b>SCSA</b>	School Curriculum and Standards Authority
<b>TRBWA</b>	Teacher Registration Board of Western Australia
<b>WA</b>	Western Australia
<b>WACE</b>	Western Australian Certificate of Education
<b>WWCC</b>	Working with Children Check/Card (technically called an ‘assessment notice’)
<b>WWC Screening Unit</b>	Office within the CPFS 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 are given (usually as s. #) for ease of reference. The same conventions are applied to Regulations (reg. #).

WA Acts and Regulations can be consulted on the State Law Publisher’s website: [slp.wa.gov.au](http://slp.wa.gov.au)

Federal Acts and legislative instruments are published on Comlaw: [legislation.gov.au/](http://legislation.gov.au/)

# 1. Ownership, management or control by the governing body

## Legislation and context

Section 160(1)(a) of the School Education 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, necessarily including management of the performance of the principal.

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 and manage the performance of the principal;
- 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 viability (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 Commerce. 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.

Where one body owns the school and another exercises management and control, the Act enables either to be recorded as the governing body. In such a situation the Director General will not direct that one body or the other should be the governing body. However, he may come to the view on the evidence that the governing body nominated would not be able to ensure the Act, or his conditions or directions, are complied with.

A governing body which owns but does not manage the school may overcome such a concern by giving a correctly executed delegation to the managing body which not only enables that body to perform the functions of the governing body as delegate but also requires it to be accountable to the governing body for that performance.

A governing body which controls or manages but does not own the school may be required to provide evidence that its relationship with the owner ensures adequate financial security. For example, the owner may have granted a long term lease providing security of tenure. Where the school's owner has lent working capital to the school the Director General may request a copy of the relevant loan agreement.

## ▶ 2. Governing body's constitution

### Legislation and context

Section 160(1)(b) of the School Education 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 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 he 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 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.

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 at [workingwithchildren.wa.gov.au](http://workingwithchildren.wa.gov.au)

## 4. Observance of the registration standards

### Legislation and context

The Minister for Education has determined 14 registration standards in accordance with s. 159(1) of the School Education 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 January 2017.

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;
- Director General's considerations in exercising a judgement or granting an exemption where relevant; and
- relevance to other registration standards and other requirements, if any.

Note that the overview of each standard commences on a new page:

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## Standard 1

# Curriculum

- 1.1** The curriculum is approved, accredited or recognised by the School Curriculum and Standards Authority.
- 1.2** Curriculum for pre-kindergarten is consistent with the principles, practice and learning outcomes of the Early Years Learning Framework.

### Supporting evidence

The following may be requested:

- Curriculum plan for each relevant stage of schooling (e.g. early childhood, middle primary, upper primary, lower secondary).
- 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.

### Explanatory notes

#### **Curriculums**

Schools may offer more than one curriculum. Section 161(1)(d) of the School Education Act refers to “the curriculum or curriculums that the school may provide” being recorded on the register of non-government schools.

For pre-kindergarten the Early Years Learning Framework must be used.

For kindergarten a school is to use the School Curriculum and Standards Authority’s (SCSA’s) Kindergarten Curriculum Guidelines unless it has received SCSA approval for an alternative curriculum.

For pre-primary to Year 10:

- a school providing the Western Australian Curriculum does not require individual approval for that curriculum from SCSA;
- a school providing an approved alternative to the Western Australian Curriculum will be identified to the Director General by SCSA on an annual basis; and
- a school which is not identified by SCSA as above but claiming 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 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 at the classroom level should be linked to the school curriculum plan.

From the beginning of 2017 all schools are required to implement the ‘Humanities and Social Sciences’ and ‘Health and Physical Education’ components of the Western Australian Curriculum with reporting to

parents by the end of first semester. Implementation of the revised curriculums for English, Mathematics and Science is also required from the beginning of 2017.

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

### **Years 11 and 12**

Most schools provide Year 11 and 12 students with a Western Australian Certificate of Education (WACE) pathway or Preliminary Units where required. However, the School Curriculum and Standards Authority Act does not prevent a school from offering a different or additional curriculum to students enrolled in Years 11 and 12.

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 SCSA.

### **Relevance to other standards and requirements**

As the governing body is required to be accountable for the development and implementation of effective processes to plan for, monitor and achieve improvements in student learning, evidence that it receives regular advice and information regarding curriculum implementation and evaluation may be requested (see Chapter 6). That advice and information should identify areas of strength and areas for improvement in the school's curriculum plan, as well as improvement strategies to be implemented. The quality of a school's curriculum plan and its assessment and reporting policy, together with the rigour of its analysis of student achievement, all contribute to the standard of education provided (see Chapter 7).

## ► Standard 2

# Staff to student ratios

- 2.1** In pre-primary, primary and secondary classes, staff to student ratios are sufficient to provide a satisfactory standard of education and care.
- 2.2** In pre-kindergarten and kindergarten classes, including those containing older students, unless otherwise approved by the Director General:
- the staff to student ratio is one staff member, working directly with the students, to a maximum of 10 students; however 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;
  - one early childhood teacher is required for every 30 students; and
  - an early childhood teacher must be 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 distance 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;
- qualifications and proficiency of the staff and/or external providers;
- involvement of education assistants;
- capacity and quality of the teaching area, furniture and equipment;
- risks associated with the activity and/or environment;
- participation and reliably regular availability of volunteers.

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;
- staff leave or transfer has temporarily caused a reduction in numbers;
- there has been an unanticipated influx of students.

### **Relevance to other standards and requirements**

The staff to student ratio standard is to be read in conjunction with the staff standard for pre-kindergarten and kindergarten which sets out the staffing qualifications (Standard 4). Both will contribute to the standard of education provided at the school (see Chapter 7).

## ▶ Standard 3

# Hours and days of instruction

- 3.1** Unless otherwise approved by the Director General, the annual total number of hours of instruction are equivalent to, or more than, the product of the number of days of instruction for government schools as published in the *Government Gazette* and the minimum hours of instruction prescribed for government schools.

### 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 hours

The times allocated for instruction at government schools must be in accordance with regulations 24–27 of the *School Education Regulations 2000*, as follows.

- **Kindergarten** – at least 11 hours instruction per week. (Note: an additional four hours per week are delivered under the National Partnership Agreement on Universal Access to Early Childhood Education.)
- **Pre-Primary** (i.e. children in the first year of the compulsory education period) – at least 25 hours and 50 minutes average per week with not less than 4 hours and 10 minutes of instruction on any given day, unless otherwise approved by the Director General. The compulsory education period commences in the year the child will be 5 years old by 30 June.
- **Primary and Secondary programmes** – at least 25 hours and 50 minutes instruction per week (and a minimum of 4 hours and 10 minutes on any given day).

### 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 [det.wa.edu.au/education/termdates/](http://det.wa.edu.au/education/termdates/) which also provides information on term dates planned for future years.

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

The minimums set out above apply unless the Director General approves otherwise. He may do so in appropriate circumstances such as the following:

- when the learning and engagement needs of the students favour shorter hours – e.g. C.A.R.E. schools;
- to enable a school community to attend to its cultural responsibilities;
- when the school has been affected by a catastrophic weather event;
- to benefit the students [as in reg. 27(4)(a) for government schools];
- to benefit the good management of the school [as in reg. 27(4)(b) for government schools].

### **Relevance to other standards and requirements**

The days and hours of instruction will impact on the overall standard of education delivered (see Chapter 7).

## Standard 4

# Staff

- 4.1** The governing body 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 pre-kindergarten and kindergarten, unless otherwise approved by the Director General:
- every class must have a teacher with either an approved early childhood teaching qualification or at least 7 years' experience as an early childhood teacher although, if the early childhood teacher is absent for up to 12 weeks, his or her place may be filled by a primary-qualified teacher;
  - at least 50% of the staff required to meet the staff to student ratio must have, or be actively working towards, at least an approved diploma level education and care qualification (the teacher can be included in this 50%) and all other staff required to meet the ratio must have, or be actively working towards, at least an approved Certificate III level education and care qualification;
  - there must be 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
  - a record must be kept of the person responsible for the class at any time and who was working with the students at any time.
- 4.3** The school implements a Staff Code of Conduct which includes boarding staff if relevant and provides guidelines on how to comply with it.
- 4.4** The school provides all new staff, including boarding staff if relevant, with an induction covering the Staff Code of Conduct and guidelines on how to comply with it and all other school policies and procedures.
- 4.5** The school ensures all staff participate in regular performance management procedures and professional learning linked, where appropriate, to the Professional Standards for Teachers in Western Australia and to the school's processes for improving student learning.

### 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 CPFS website at [workingwithchildren.wa.gov.au](http://workingwithchildren.wa.gov.au).

### **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.

In the absence of seven years' experience as an early childhood teacher, the allocated teacher must have an approved early childhood teaching qualification as defined.

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.

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 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 requires at least:

- provision of copies or ready access to copies;
- 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.

### **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**

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 staff with the appropriate qualifications due to remoteness despite genuine efforts to do so;
- unexpected transfer has temporarily caused the loss of a qualified staff member;
- there has been an unanticipated influx of students part-way through the 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 his approval to waive the applicable requirements of the standard.

### **Relevance to other standards and requirements**

Compliance with this standard will contribute to both the standard of education (see Chapter 7) and the levels of care (see Chapter 8) provided by a school. The quality of relevant policies and other documentation, including consistency and comprehensiveness as well as clarity and transparency, and their endorsement and regular review by the governing body will be relevant to the Director General's assessment of the governing body's accountability (see Chapter 6). Evidence of effective and consistent implementation of staff induction, performance management and professional learning policies and procedures will be required to satisfy the Director General about the standard of education and levels of care provided.



## 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** For pre-kindergarten and kindergarten programmes, unless otherwise approved by the Director General, new buildings 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.

### Supporting evidence

The following may be requested:

- In the case of initial registration and registration change applications, or on renewal when new buildings 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.

### Explanatory notes

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.

### ***Project plan and approvals***

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 existing building, change of use of 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 for the independent school reviewers to see 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.<sup>1</sup> 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.

### **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).<sup>2</sup> Both indoor and outdoor areas must provide the minimum requisite 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.

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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.

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

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

'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.<sup>4</sup>

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

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.

## Director General's considerations

### **Safe premises**

Safety considerations include:

- accessibility for students and staff with disabilities;
- 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.

### **Appropriate premises**

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

- the obligation to provide 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;
- risks associated with the activity and/or environment.

### **Accessible premises**

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 (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].

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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).

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.

A commitment to the provision of a child-safe environment as required by Standards 10 and 12 is also relevant to satisfying the premises standard.

### **Minimum space requirements waiver**

The Director General may waive the space requirements in Standard 5.2 in appropriate circumstances such as where:

- a serious and unexpected short term care emergency arises requiring an additional child or children to be granted immediate enrolment;
- the school is in a rural or remote area and no alternative programme is available for the additional child or children;
- there is an unexpected influx of children wishing to enrol part-way through a school year.

### **Relevance to other standards and requirements**

Schools may consider maintenance, replacement and risk in connection with both premises (Standard 5) and facilities (Standard 6) as part of the same process. As noted, this standard also has a relationship with Standard 10 on boarding and Standard 12 on child abuse prevention. Compliance with each standard will contribute to the Director General's confidence in the provision of satisfactory levels of care for students at the school (see Chapter 8). Where a school is found to have breached the *Building Act 2012 (WA)*, *Occupational Safety and Health Act 1984 (WA)*, *Disability Discrimination Act 1992 (Cth)* and/or related regulations and standards, the breach will be evidence that the governing body is not being accountable for compliance with applicable laws (see Chapter 6).



## 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.

### 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.

### 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:

- 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.

### **Relevance to other standards and requirements**

Most schools will consider maintenance, replacement and risk in connection with both premises (Standard 5) and facilities (Standard 6) as part of the same process. Compliance with each standard will increase the confidence of the Director General in the provision of satisfactory levels of care for students at the school (see Chapter 8). Where a school is found to have breached the *Occupational Safety and Health Act 1984* (WA) and/or related regulations, the breach will be evidence that the governing body is not being accountable for compliance with applicable laws (see Chapter 6).

## ▶ Standard 7

# Students per year level

- 7.1** The number of students in each year level is sufficient to sustain delivery of the approved curriculum and provide ancillary services to ensure access to educational programmes for all students.

### 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.

### **Relevance to other standards and requirements**

The size of the student population in a non-government school is usually closely related to financial viability (Standard 13). It can impact both the standard of education (see Chapter 7) and the levels of care (see Chapter 8) provided at the school.

# Enrolment and attendance

**8.1** Student enrolment and attendance policies, procedures and practices comply with all legal requirements including the prohibition of unlawful discrimination.

## 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 WA, 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 DoE. 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 at [det.wa.edu.au/studentsupport/behaviourandwellbeing/detcms/navigation/student-attendance/](http://det.wa.edu.au/studentsupport/behaviourandwellbeing/detcms/navigation/student-attendance/)

### **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 for Education, 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 Services (DES) using the *Application for Exemption from School Enrolment* form available on the DES website. When a student reaches Years 11 and 12 and participates in employment, a traineeship or an apprenticeship, a Notice of Arrangement 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 Arrangement form satisfies a parent's legal obligation under the Act to enrol the student during the compulsory education period.

### **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 distance learning as to those attending in person.

### **Relevance to other standards and requirements**

Breach of the legal requirements relating to enrolment and attendance may indicate that the school's governing body has failed in its duty to be accountable for compliance by the school with all written and other laws applicable to the school's operations (see Chapter 6).

# Critical incidents

- 9.1** The Principal notifies the governing body of all critical or emergency incidents.
- 9.2** Critical and emergency incidents are managed in such a way as to give highest priority to the best interests of the student or students affected.
- 9.3** 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 on the DES website at [des.wa.gov.au](http://des.wa.gov.au)

## Supporting evidence

The following may be requested:

- Critical incidents policy and procedures.
- Evidence of notification to the governing body of all critical or emergency incidents.
- Critical incidents register including outcomes of any review of policy or procedure consequent upon an incident.

## Explanatory notes

### **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 procedures should clearly stipulate notification of the governing body and of the Director General and require records to be kept of each notification. Where a principal knows that a mandatory report has been made in regard to a student at their school, the Director General is to be notified as this falls within the definition of a critical incident. Such a notification only needs to record that a mandatory report has been made to the Department for Child Protection and Family Support and provide the report receipt number. Similarly, where a principal has issued a formal warning to a staff member or terminated the employment of a staff member for a breach of the Staff Code of Conduct suspected to be grooming behaviour, a critical incident notification must be made to the Director General. (Note that the Teacher Registration Board may have to be notified in addition: refer to *Teacher Registration Act 2012*, s. 42.)

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 the purpose of making this standard. 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, the relevant school policy must be referred to by title, and the text of the relevant section of that policy must be provided.

As resolution of a critical incident may not be achieved until some time after the occurrence of the incident, and schools are required to report critical incidents within 48 hours, the Director General may request further information as to the resolution of the matter by way of an update. When critical and/or emergency incidents occur, a key focus of the Director General will be to understand whether non-observance of a registration standard or other requirement contributed to the occurrence of the incident and how effectively the school has responded.

### **Relevance to other standards and requirements**

The critical incidents policy should support and be consistent with the school's child-safe environment arrangements including policies and procedures developed to prevent the occurrence of any form of child abuse (Standards 5, 10 and 12). An effective risk assessment and review procedure will enhance the levels of care afforded to students at the school (see Chapter 8).



## Standard 10

# Boarding

- 10.1** Schools enrolling boarders provide boarding facilities that are safe and developmentally appropriate.
- 10.2** The physical premises and facilities are fit for purpose, safe, hygienic, well-maintained, sufficient and appropriate for the accommodation of boarding students and for the numbers of students accommodated.
- 10.3** The accommodation arrangements enable the provision of a child-safe environment.
- 10.4** The boarders receive a well-balanced and nutritious diet.
- 10.5** 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*.
- 10.6** The school maintains open and effective communication with the parents and guardians of boarders.
- 10.7** The code of conduct for students sets out the minimum standards of conduct to be observed at a boarding facility.

### Supporting evidence

The following may be requested from schools providing boarding facilities:

- Current number of boarding students.
- The policies and procedures for the welfare, safety and care of boarding students.
- The details of staff employed in the management and operation of the school's boarding facility.

### 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 disciplinary procedures (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.

## **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.

Like other school premises, boarding accommodation, including 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*, Standard 20, made under the *Disability Discrimination Act 1992* (Cth).

## **A child-safe environment**

The boarding arrangements must enable the provision of a child-safe environment and aim to eliminate opportunities for grooming behaviour, bullying and harassment, child abuse, assaults and self-harm to occur undetected. This requires careful consideration of boarding policies and procedures as well as the physical environment from this perspective.

## **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).

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. Training of 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 on a regular basis. Boarding supervisors must also receive training in their mandatory reporting obligations with regular revision.

## **Director General's considerations**

### **Appropriate**

In assessing the appropriateness of boarding accommodation, 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.

## **Relevance to other standards and requirements**

The premises and facilities standards (Standards 5 and 6) overlap significantly with this standard. Standards 5 and 6 apply equally to boarding accommodation and facilities as to other school buildings and facilities where relevant, including the requirement for regular maintenance and replacement schedules. There is also overlap with the staff standard (Standard 4) although boarding staff are recorded on a separate section of the staff register (noting that boarding staff who also teach and/or provide student transport must be recorded on all applicable sections of the staff register). Compliance with this standard will contribute to the levels of care provided by the school (see Chapter 8).

## ► Standard 11

# Complaints management

- 11.1** The school has and implements policies and procedures for receiving and handling complaints, including from students in boarding facilities if relevant, 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.

### Supporting evidence

The following may be requested:

- Complaints management policy and procedures.
- The school's complaints records.

### Explanatory notes

#### **Policy and procedures**

The school's complaints management system, which includes its policy and procedures as well as complaints records, will be evaluated by reference to the current Australian Standard for Complaint Management in Organizations [AS/NZS 10002:2014] and specifically against Appendix A of that Standard which provides guidance for small organisations. Appendix A, in summary, recommends that:

- the school welcomes complaints;
- there is a clear process for dealing with complaints, including allocation of responsibility;
- staff are aware of the process and how to respond to a complaint;
- all staff are enabled either to resolve or refer a complaint;
- complaints are acknowledged promptly;
- the assessment phase enables prompt resolution where possible and, where it is not, a prompt decision is made to determine how to proceed;
- the complainant receives information as to how the school proposes to deal with the complaint and the proposed timeframe and the school takes into account the complainant's view;
- the school informs the complainant of the outcome of the complaint with an explanation of the reasons and information on any further avenues of redress which may be available;
- the school maintains a record of complaints received, action taken, decisions made and outcomes;
- the school reviews its complaints records regularly with a view to assessing both its services and its complaints management system.

## Director General's considerations

### **Accessible and child-friendly**

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 and staff. This can be done via a range of media. Typically it is included in the Parent Handbook and available on the school's website. To increase accessibility for all members of the school community, including students, a simple flow diagram should be included. The WA Commissioner for Children and Young People has issued guidelines for developing a child-friendly complaints system which the Director General recommends schools consider: *Are You Listening? Guidelines for making complaints systems accessible and responsive to children and young people.*

### **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.

### **Complaints to the Director General**

Where complaints have been submitted to the Minister for Education or the DES, 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 Child Protection and Family Support and WA Police;
- 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 the complaint raises unfairness or other inadequacies in the school's complaints policy and procedures, the Director General may inquire into whether the school is observing this standard.

The Director General has no power to intervene in a school's handling of a complaint or its outcome. However, information received in connection with a complaint may give rise to questions not only about a school's compliance with this standard but also its compliance with other standards and requirements.

### **Relevance to other standards and requirements**

The management of complaints has the capacity to improve a school's operations across the board, particularly when complaints are recorded in such a way as to enable patterns to be revealed and when the governing body requires regular review and revision of policies, procedures and practices in light of complaints received.

## 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 relevant, which are approved by the governing body, reviewed annually and updated in light of experience and relevant research, including at least:
- (a) arrangement of the premises and policies and procedures to deter inappropriate interactions and facilitate detection;
  - (b) a Staff Code of Conduct and guidelines on how to comply with it which clearly distinguish between grooming and sexual abuse, providing examples, and clearly delineate the boundaries between appropriate and inappropriate interaction between students and between students and adults;
  - (c) recruitment practices which:
    - i. engage only those who are suitable to work with students;
    - ii. make every attempt to assess commitment to the Staff Code of Conduct on the part of applicants; and
    - iii. include induction into the school's policies and procedures for the prevention, detection and reporting of suspected and actual grooming and abuse, and mandatory reporting obligations;
  - (d) annual professional learning for all staff on the Staff Code of Conduct, the guidelines on how to comply with it and related grooming and child abuse prevention practices and strategies;
  - (e) 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 who to tell when a boundary is crossed; and
  - (f) provision of information to parents and guardians about the protective behaviours curriculum, the Staff Code of Conduct and when, how and who to tell when they have concerns about grooming or child abuse.
- 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 report breaches and suspected breaches of the Staff Code of Conduct, other than those subject to mandatory reporting obligations, to the Principal or chair of the governing body;
  - (b) that staff must understand and comply with their mandatory reporting obligations;
  - (c) 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 for Child Protection and Family Support is to be informed immediately;
  - (d) 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
  - (e) 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 9.3.

- 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:
- the governing body and Principal comply with their legal and professional obligations;
  - in the case of an allegation of grooming or child abuse by staff, the complainant is informed about the advocacy, support and other services which may be available; and
  - 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 the subject of the allegation, the complainant, 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.
- 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

This standard is introduced with effect from 1 January 2017 but schools have been on notice since June 2016 and are therefore expected to be fully compliant, including having all staff trained in the revised Staff Code of Conduct, by the beginning of the 2017 school year.

#### ***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 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.

### Relevance to other standards and requirements

Effective implementation by all staff of the Staff Code of Conduct and associated documentation as required by this standard will critically impact the levels of care provided at a school (see Chapter 8). Maintaining a child-safe culture and environment is also essential for effective student learning and therefore also contributes to the standard of education provided at the school (see Chapter 7).

## Financial viability

**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 appropriate ancillary services to ensure access to educational programmes for all students.

### 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.
- 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 a declaration of independence.

### **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 DES.

### **Leases**

Lease and rental agreements have a major 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 insurance policies current covering, for example, public liability, professional indemnity, buildings and all risks.

### **Grants Auditing Program**

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

## Relevance to other standards and requirements

A school's financial viability affects its educational viability which in turn impacts on the standard of education it is able to deliver (see Chapter 7). Many other aspects of the school's operations may also be affected when the financial resources of the school are compromised. The Department's financial viability assessment is necessarily rigorous. The documentation supplied for a financial viability assessment will also provide evidence of the extent of the governing body's accountability for financial management (see Chapter 6).

## ► Standard 14

# Discipline and punishment

- 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 student behaviour management policy explicitly forbids the use of any form of child abuse, corporal punishment or other degrading punishment.
- 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, 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***

Procedural fairness requires that:

- 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 which may include interviewing witnesses;
- the student is given a chance 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; and
- the decision-maker acts reasonably and consistently with school policy.

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.

### **Relevance to other standards and requirements**

The quality of the behaviour management practices at a school, including fairness and consistency of application, will be relevant to both the standard of education and the levels of care.

## 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 of the school to be the responsibility of the principal and clearly separated from the governance role of the governing body. “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.”<sup>6</sup> 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 separation is also related to accountability. The principal is accountable to the governing body; the governing body is accountable to the Minister for Education 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.

### 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.
- Governing body’s performance management protocol in respect of the principal.

### Director General’s considerations

The constitution or other board-endorsed document should make a clear distinction between the role of the principal – being day-to-day management of the school – and that of the governing body – being overall governance and control or ultimate responsibility.

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 accounted for in the school.

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<sup>6</sup> Robert I. Tricker, 1998, *Pocket Director*, p. 8.

## 6. Governing body accountability

### 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 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 achieving improvements in student learning:

- 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 distance 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.
- 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 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.

### **National Quality Standard audit**

All principals in Western Australia are required to undertake an annual National Quality Standard 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 National Quality Standard (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.

### **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.

### **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 decision-maker 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*
- *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 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*
- *Building Code 2013*
- *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 Commerce 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*. The *Guide to the Australian Education Act 2013* can be found on the Australian Government Department of Education website.

### **Evidence of capacity**

Documentation evidencing the relevant qualifications, expertise and/or experience of governing body officers may include the curriculums 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.

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 accountability 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 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.

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].

## 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 provides 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 CPFS.
- 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 will be eligible on graduation.
- 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

#### **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 developing and implementing effective processes to plan for, monitor and achieve improvements in student learning [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 Child Protection and Family Support.

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.

## **Years 11 and 12**

Year 11 and 12 pathways are expected to provide graduates with a Western Australian Certificate of Education or an International Baccalaureate. 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.

## **Director General's considerations**

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 distance 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.

## 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 provides 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 CPFS 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.

### **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: [safeschoolshub.edu.au](http://safeschoolshub.edu.au).

The Director General has adopted the definitions of bullying, harassment and violence which underpin the Safe Schools Hub materials 'Bullying No Way' and expects schools to adopt these or similar definitions.

- *Bullying* can be verbal, physical, social or psychological abuse that is repeated, harmful and involves the misuse of power. It can be committed through information and communication technologies (*cyberbullying*).
- *Harassment* is behaviour that targets an individual or group for an impermissible reason: identity, race, culture or ethnic origin, religion, physical characteristics, gender, sexual orientation, marital, parenting or economic status, age, ability or disability. Harassment offends, intimidates or creates a hostile environment but need not be an ongoing pattern or repeated behaviour. Harassment can be unintentional.
- *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. It may involve provoked or unprovoked acts and can be a single incident, a random act or can occur over time.

### **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.

AISWA has developed Bushfire Management Guidelines. Schools may also wish to consider the appointment of an independent bushfire consultancy firm to provide a bushfire management plan for the school. 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 staff and 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 programmes.

## **Director General's considerations**

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 distance 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 annually 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.

## ▶ 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 for Education, 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 for Education. 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;
- a relatively short delay to the proposed commencement date;
- a minor change 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* and the 1992 Regulations made under it (ESPRA) and the Commonwealth's *Education Services for Overseas Students Act 2000* and the 2001 Regulations made under it (ESOS Act). 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 2007* (National Code).

Note that the National Code is currently under review. This chapter will be amended when the revised Code comes into force.

## Terms used

**CRICOS** – the Commonwealth Register of Institutions and Courses for Overseas Students  
[cricos.education.gov.au/](http://cricos.education.gov.au/).

**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 Department for Immigration and Border Protection (DIBP) 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 in order to enrol them. It is a mandatory visa condition (8517) that the primary visa holder **must** maintain adequate schooling arrangements for any school-age dependents who joined them in Australia on a student dependent visa for more than three months.

## Registration process

A school wishing to offer education services to the primary holder of an international student 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.

“Overseas students differ from domestic students in that they are subject to migration controls and face different needs for consumer protection. Under Australian law, students from overseas are generally required to hold a student visa to enter Australia for education and training, and must comply with its conditions. Consumer protection must be appropriate for overseas students who usually cannot evaluate the quality of a course before purchase. If there is reason for discontent with the services they have obtained, they may not be able to remain in Australia to pursue the consumer protection remedies provided through Australian courts.” [National Code, Part A, clause 6.1]

The discretion to determine whether or not a school has demonstrated its compliance with the international education legislation and requirements rests with the Director General of the Department of Education Services as a delegate of the Australian Government Department of Education and Training. The National Code requires at least one pre-registration inspection of the provider's premises during which students as well as governing body members and staff may be interviewed [National Code, Part C, clause 11].

A non-government school providing education to international students will be required to address the regulatory requirements outlined in this chapter in the course of its application for initial registration, or for renewal of registration. This will usually involve providing additional evidence as described below.

Once all regulatory requirements have been met, the Director General will register the school under the ESPRA, and then make a recommendation to the Commonwealth Department of Education and Training for the education provider and its courses to be registered on CRICOS. The name of the school's legal entity, which may differ from the name of the governing body, and its trading name are recorded on CRICOS.

### **Additional regulatory requirements – overview**

Note, schools **must** refer to the *National Code* Standards as this brief outline does not provide all applicable details.<sup>7</sup>

#### **Registered capacity**

The total number of international students a school is allowed will fit one of two categories: (1) nine or fewer, or (2) ten or more. The first registration application made by a school will note which total international student enrolment category the school is requesting. As part of the registration approval process, the Director General will decide the maximum number of students the school can enrol to recommend for approval. In making this decision the Director General will consider the capacity of the school in terms of its premises, facilities, resources, equipment, materials and staff to student ratio [National Code, Part C, clause 12.1].

A school must ensure its international student enrolments remain within the total registered capacity at all times. A school must apply through the Director General for approval to amend its registered capacity.

#### **Pre-enrolment information**

Information including promotional materials and the school's refund policy must conform to National Code Standards 1, 2, 3, 6 and 11 and include the school's refund policy. Marketing materials must not be false or misleading [ESPRA s.13(1)(d)]. Prospective students must be equipped to make informed decisions [National Code, Standard 2].

#### **Agreement to provide education services**

The written agreement must contain the following information (which may also be contained in the pre-enrolment information and the letter of offer):

- identify the course or courses in which the student is to be enrolled and any conditions on his or her enrolment;
- provide an itemised list of course money that identifies tuition and non-tuition fees payable by the student;
- provide information in relation to refunds of course money;
- set out the circumstances in which personal information about the student may be shared between the registered provider and the Australian Government and designated authorities and, if relevant, the Tuition Protection Service. This information includes personal and contact details, course enrolment details and changes, and the circumstance of any suspected breach by the student of a student visa condition;
- advise the student of his or her obligation to notify the registered provider of a change of address while enrolled in the course;
- the amounts that may or may not be repaid to the student (including any course money collected by education agents on behalf of the registered provider) if the student defaults, and if the provider defaults, in relation to all course money received;
- processes for claiming a refund;
- a plain English explanation of what happens in the evidence of a course not being delivered; and
- a statement that "This agreement, and the availability of complaints and appeals processes, does not remove the right of the student to take action under Australia's consumer protection laws" [National Code, Standard 3; also ESPRA s.13(1)(e)].

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<sup>7</sup> The Standards and explanatory guide can be accessed from [internationaleducation.gov.au/regulatory-information/education-services-for-overseas-students-esos-legislative-framework/national-code/nationalcodepartd/pages/esosnationalcode-partd.aspx](http://internationaleducation.gov.au/regulatory-information/education-services-for-overseas-students-esos-legislative-framework/national-code/nationalcodepartd/pages/esosnationalcode-partd.aspx)

### **Levying of fees**

A maximum of 50% of a student's total tuition fees can be requested before the student has begun the course [ESOS Act s. 27]. Students, or the person responsible for paying the tuition fees, can choose to pay more than 50% of their tuition fees before they start their course.

### **Student accommodation**

The DIBP must be satisfied that appropriate welfare arrangements are in place for under-18 students before a visa is granted. In the event that neither a parent nor a suitable relative is available in Australia to directly provide for the welfare of a student, and the school accepts the student, it must approve suitable accommodation and welfare arrangements and complete a Confirmation of Appropriate Accommodation and Welfare (CAAW) letter available through the DIBP. This includes ensuring the appropriateness of care during term breaks unless the student will be returning to their parents or guardian. Where the school approves the arrangement for students under 18 years of age, it must nominate two dates:

- (1) when the school has elected to begin taking responsibility; and
- (2) when the school will cease to take responsibility for approving the welfare arrangements for that student [National Code, Standard 5].

Under Migration Regulations, the school must nominate a period of at least the Confirmation of Enrolment (CoE) plus seven days in order to satisfy DIBP provisions for appropriate welfare arrangements.

Schools must have documented procedures for checking the suitability of the student's accommodation, support and general welfare arrangements.

### **Student support services**

Schools must assist students to adjust to study and life in Australia by providing age-appropriate and culturally sensitive student support services [National Code, Standard 6]. These services must include adequate counselling and pastoral care services [ESPRA s. 13(1)(g)]. One or more contact officers should be appointed as the official point of contact for international students.

### **Absences**

The school is required to monitor attendance for its courses and must have and implement appropriate *documented* attendance policies for each course. The policies and procedures must be provided to staff and students. The school must be proactive in notifying and counselling students who are at risk of failing to meet the minimum 80 per cent attendance requirement attached to the student visa [National Code, Standard 11]. Schools may choose not to report a student for attending less than 80% where:

- the student can demonstrate compassionate or compelling reasons;
- the decision not to report is consistent with the provider's documented attendance policies and procedures; and
- the student is attending at least 70% of the scheduled course contact hours.

### **Course progress**

The school must have a documented course progress policy and procedure which is provided to both students and staff [National Code, Standard 10]. Suspending the enrolment of an international student is only permitted in defined circumstances [National Code, Standard 13].

Each international student's course progress must be systematically monitored. Schools must be proactive in notifying and counselling students who are identified as being at risk of failing to meet the course progress requirements. Where this is identified, the National Code requires that providers implement and record an intervention strategy to remedy the situation [Standard 10].

An intervention strategy must have procedures for identifying and assisting students at risk of not meeting course requirements at the end point of each study period, or earlier if outlined in the provider's course progress policies and/or intervention strategy. Providers must have documented procedures for contacting and counselling students; arrangements to assist students to satisfactorily complete their course; and information about how and when the intervention strategy is activated. The intervention strategy should be tailored to each student's needs whether academic or personal.

## **Complaints management**

The complaints management and appeals process for international students must satisfy the following requirements:

- there must be a formal complaints lodgement process which requires a written record to be kept;
- each complainant has an opportunity to formally present his or her case at minimal or no cost to him or herself;
- each party may be accompanied and assisted by a support person at any relevant meetings;
- the complainant is given a written statement of the outcome, including details of the reasons for the outcome; and
- the process commences within 10 working days of the formal lodgement of the complaint and supporting information and all reasonable measures are taken to finalise the process as soon as practicable [National Code, Standard 8].

International students must have access to an independent external person or body to consider whether due process has been followed when the school's internal process has been unable to reach an agreed resolution [National Code, Standard 8].

International students are to be made aware, during orientation or induction programmes and in the school's complaints and appeals procedure, of the availability and functions of the International Student Conciliator located at the Department of Education Services. Note that the Conciliator cannot be nominated as the external body or person referred to in National Code Standard 8. The role of the Conciliator is to assist the parties to resolve the dispute themselves through mediation and conciliation, complementary to a provider's internal complaints and appeals process.<sup>8</sup>

During 2011 the Commonwealth legislated to create the Overseas Student Ombudsman to hear disputes or complaints unable to be satisfactorily resolved through the provider's internal processes. Referral of such disputes and complaints to the Ombudsman is not mandatory. However, international students should be made aware of this avenue.<sup>9</sup>

## **Supporting evidence**

Schools that hold, or are seeking, registration to deliver courses to international students must provide the following evidence.

### **Pre-enrolment and related information**

- A copy of pre-enrolment information supplied to prospective students and their families.
- A copy of the letter of offer and the written agreement entered into between the school and the student/parent/guardian.

### **Accommodation**

- A Confirmation of Appropriate Accommodation and Welfare (CAAW) letter for each international student enrolled.

### **Attendance monitoring**

- Evidence that the attendance of international students is monitored and that an intervention strategy is implemented when needed.

### **Course progress**

- A documented course progress policy and procedure provided to staff and international students.
- Evidence that each student's course progress is monitored and that an intervention strategy is implemented when needed.

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<sup>8</sup> For further information, see [des.wa.gov.au/internationaleducation/ieconciliation/Pages/default.aspx](http://des.wa.gov.au/internationaleducation/ieconciliation/Pages/default.aspx)

<sup>9</sup> For further information, refer to the Ombudsman's website at [oso.gov.au/](http://oso.gov.au/)

**Student safety and welfare**

- Documented student support services.
- Evidence that staff members who interact directly with students are aware of the school's obligations under the ESOS Act and ESPRA frameworks and of the potential implications for students arising from these obligations [National Code, Standard 6.7].

**Complaints management**

- The school's complaints policy and procedures and evidence that international students have been made aware of these.

**Director General's considerations**

The application will be assessed and considered by the Director General for registration under the ESPRA. After registration under the ESPRA, the Director General will make a recommendation to the Australian Government Department of Education and Training for CRICOS registration. Once approval is granted, the school may commence delivering courses in Western Australia.

# 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 for Education 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 was supported by the school community and local schools during consideration of the advance determination application for a significant registration change, if relevant.

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 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:

- 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 an additional site visit.

Minor amendments which can be readily accommodated without impacting the application assessment process will not have this effect and will be dealt with within the six month time limit for decision-making.

## 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 he will delay his decision beyond the decision timeframe by the length of the delay in provision of the requested information by the school. 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 he requires. 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 he 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].

## 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 him from registering the school or approving the change if he is satisfied, based on the available information and the capacity of the school's leadership, that these matters will be satisfactory once operational. However, he has the option of registering the school with a quality improvement notice, condition or direction with respect to those matters for follow-up, either before or after the school has opened.

## Limitations

In the following brief overview, the term 'limitations' refers to quality improvement notices, conditions and directions as they put limits on a school's registration.

Where the Director General is not satisfied that an applicant will observe the registration standards and meet the other requirements, he may either refuse the application or approve it with one or more limitations.

**Quality improvement notices** will generally be given in circumstances where it is determined that:

- the potential risk of the non-compliance impacts the governance of the school and does not impact the education or safety of the students;
- the non-compliance can be rectified within a relatively short period of time; and
- the capacity of the governing body to rectify the matter is high.

**Conditions** will generally be imposed in circumstances where it is determined that:

- the non-compliance could have an impact on the education and/or safety of children;
- the non-compliance requires specified action within a relatively short period of time; and
- the capacity of the governing body to rectify the matter is high.

A condition may also be imposed when a quality improvement notice has not been complied with.

**Directions** will generally be given in circumstances where it is determined that:

- the non-compliance puts the education and/or safety of children at risk;
- the non-compliance requires immediate rectification; and
- the Director General is satisfied the governing body has the capacity to rectify the matter.

A direction may also be imposed when a condition has not been complied with.

Note: the Act does not require that schools be given multiple opportunities to become compliant with the registration standards or satisfy the other requirements.

## 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 for Education to review the decision. An application for review must be made in writing on the approved form within 20 business 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 member – 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 Non-Government Schools 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 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 Non-Government Schools 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 for Education 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)].

## School Education Act 1999

### Standards for Non-Government Schools

Determined by the Minister for Education in accordance with section 159 of the *School Education Act 1999*

The following standards are to take effect on and from 1 January 2017.

#### STANDARD 1: CURRICULUM OR CURRICULUMS AT SCHOOLS<sup>1</sup>

- 1.1 The curriculum is approved, accredited or recognised by the School Curriculum and Standards Authority.
- 1.2 Curriculum for pre-kindergarten is consistent with the principles, practice and learning outcomes of the Early Years Learning Framework<sup>2</sup>.

#### STANDARD 2: STAFF TO STUDENT RATIOS AT SCHOOLS<sup>3</sup>

- 2.1 In pre-primary, primary and secondary classes, staff to student ratios are sufficient to provide a satisfactory standard of education and care.
- 2.2 In pre-kindergarten and kindergarten classes, including those containing older students, unless otherwise approved by the Director General:
  - (a) the staff to student ratio is one staff member, working directly with the students, to a maximum of 10 students however 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) one early childhood teacher is required for every 30 students; and
  - (c) an early childhood teacher must be in attendance at all times that students are present<sup>4</sup>.

#### STANDARD 3: THE DAYS, AND HOURS, OF INSTRUCTION PROVIDED BY SCHOOLS<sup>5</sup>

- 3.1 Unless otherwise approved by the Director General, the annual total number of hours of instruction are equivalent to, or more than, the product of the number of days of instruction for government schools as published in the *Government Gazette* and the minimum hours of instruction prescribed for government schools<sup>6</sup>.

#### STANDARD 4: THE STAFF OF SCHOOLS<sup>7</sup>

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1 *School Education Act 1999*, section 159(1)(a).

2 Matching the requirement of the National Quality Standard for Early Childhood Education and Care to the extent agreed by the cross-sectoral committee.

3 *School Education Act 1999*, section 159(1)(b).

4 Matching the requirement of the National Quality Standard for Early Childhood Education and Care to the extent agreed by the cross-sectoral committee.

5 *School Education Act 1999*, section 159(1)(c).

6 *School Education Regulations 2000*, regulations 24 – 27.

- 4.1 The governing body 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 pre-kindergarten and kindergarten, unless otherwise approved by the Director General:
- every class must have a teacher with either an approved early childhood teaching qualification<sup>8</sup> or at least 7 years' experience as an early childhood teacher although, if the early childhood teacher is absent for up to 12 weeks, his or her place may be filled by a primary-qualified teacher;
  - at least 50% of the staff required to meet the staff to student ratio must have, or be actively working towards, at least an approved diploma level education and care qualification (the teacher can be included in this 50%) and all other staff required to meet the ratio must have, or be actively working towards, at least an approved certificate III level education and care qualification;
  - there must be 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<sup>9</sup>; and
  - a record must be kept of the person responsible for the class at any time and who was working with the students at any time<sup>10</sup>.
- 4.3 The school implements a Staff Code of Conduct which includes boarding staff if relevant and provides guidelines on how to comply with it.
- 4.4 The school provides all new staff, including boarding staff if relevant, with an induction covering the Staff Code of Conduct and guidelines on how to comply with it and all other school policies and procedures.
- 4.5 The school ensures all staff participate in regular performance management procedures and professional learning linked, where appropriate, to the Professional Standards for Teachers in Western Australia and to the school's processes for improving student learning<sup>11</sup>.

## **STANDARD 5: THE PREMISES THAT MAY BE USED FOR, OR IN CONNECTION WITH, SCHOOLS<sup>12</sup>**

- 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 For pre-kindergarten and kindergarten programmes, unless otherwise approved by the Director General, new buildings 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<sup>13</sup>.

## **STANDARD 6: THE FACILITIES OF SCHOOLS<sup>14</sup>**

- 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.

## **STANDARD 7: THE NUMBER OF CHILDREN IN EACH YEAR LEVEL AT SCHOOLS<sup>15</sup>**

7 *School Education Act 1999*, section 159(1)(d).

8 The qualification must be both (1) listed as an early childhood teaching qualification on the website of the Australian Children's Education and Care Quality Authority (ACECQA) and (2) either listed as an Initial Teacher Education Programme (ITEP) on the website of the Australian Institute of Teaching and School Leadership (AITSL) or approved by the Teacher Registration Board of Western Australia (TRBWA) as equivalent to an ITEP.

9 For a list of approved training and qualifications refer to the website of the Australian Children's Education and Care Quality Authority.

10 Matching the requirement of the National Quality Standard for Early Childhood Education and Care to the extent agreed by the cross-sectoral committee.

11 *School Education Act 1999*, section 160(1)(f)(ii).

12 *School Education Act 1999*, section 159(1)(e).

13 Matching the requirement of the National Quality Standard for Early Childhood Education and Care to the extent agreed upon for schools in Western Australia.

14 *School Education Act 1999*, section 159(1)(f).

- 7.1 The number of students in each year level is sufficient to sustain delivery of the approved curriculum and provide ancillary services to ensure access to educational programmes for all students.

## **STANDARD 8: THE ENROLMENT AND ATTENDANCE PROCEDURES AT SCHOOLS<sup>16</sup>**

- 8.1 Student enrolment and attendance policies, procedures and practices comply with all legal requirements including the prohibition of unlawful discrimination<sup>17</sup>.

## **STANDARD 9: THE MANAGEMENT, RECORDING AND REPORTING OF CRITICAL AND EMERGENCY INCIDENTS AT SCHOOLS<sup>18</sup>**

- 9.1 The Principal notifies the governing body of all critical or emergency incidents.
- 9.2 Critical and emergency incidents are managed in such a way as to give highest priority to the best interests of the student or students affected.
- 9.3 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 on the DES website at [des.wa.gov.au](http://des.wa.gov.au)

## **STANDARD 10: THE ARRANGEMENTS (IF ANY) FOR BOARD AND LODGING FOR STUDENTS ON SCHOOL PREMISES OR PREMISES ASSOCIATED WITH SCHOOLS<sup>19</sup>**

- 10.1 Schools enrolling boarders provide boarding facilities that are safe and developmentally appropriate.
- 10.2 The physical premises and facilities are fit for purpose, safe, hygienic, well-maintained, sufficient and appropriate for the accommodation of boarding students and for the numbers of students accommodated.
- 10.3 The accommodation arrangements enable the provision of a child-safe environment.
- 10.4 The boarders receive a well-balanced and nutritious diet.
- 10.5 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*.
- 10.6 The school maintains open and effective communication with the parents and guardians of boarders.
- 10.7 The code of conduct for students sets out the minimum standards of conduct to be observed at a boarding facility.

## **STANDARD 11: THE RESPONSE TO, AND RECORDING OF, COMPLAINTS AND DISPUTES AT SCHOOLS<sup>20</sup>**

- 11.1 The school has and implements policies and procedures for receiving and handling complaints, including from students in boarding facilities if relevant, 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.

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<sup>15</sup> *School Education Act 1999*, section 159(1)(g).

<sup>16</sup> *School Education Act 1999*, section 159(1)(h).

<sup>17</sup> Legal requirements include *School Education Act 1999*, Part 2; *School Education Regulations 2000*, regs 6, 7 and 10; the *Equal Opportunity Act 1984* and its federal counterparts *Racial Discrimination Act 1975*, *Sex Discrimination Act 1984*, *Disability Discrimination Act 1992* and *Age Discrimination Act 2004*.

<sup>18</sup> *School Education Act 1999*, section 159(1)(i).

<sup>19</sup> *School Education Act 1999*, section 159(1)(j).

<sup>20</sup> *School Education Act 1999*, section 159(1)(k).

## **STANDARD 12: THE ARRANGEMENTS FOR PREVENTING CHILD ABUSE AT SCHOOLS AND FOR RESPONDING TO ANY SUCH ABUSE WHICH MAY OCCUR<sup>21</sup>**

- 12.1 The school implements policies, procedures, practices and strategies for the prevention of grooming and child abuse, including for boarding facilities if relevant, which are approved by the governing body, reviewed annually and updated in light of experience and relevant research, including at least:
- (a) arrangement of the premises and policies and procedures to deter inappropriate interactions and facilitate detection;
  - (b) a Staff Code of Conduct and guidelines on how to comply with it which clearly distinguish between grooming and sexual abuse, providing examples, and clearly delineate the boundaries between appropriate and inappropriate interaction between students and between students and adults;
  - (c) recruitment practices which:
    - (i) engage only those who are suitable to work with students;
    - (ii) make every attempt to assess commitment to the Staff Code of Conduct on the part of applicants; and
    - (iii) include induction into the school's policies and procedures for the prevention, detection and reporting of suspected and actual grooming, and abuse and mandatory reporting obligations;
  - (d) annual professional learning for all staff on the Staff Code of Conduct, the guidelines on how to comply with it and related grooming and child abuse prevention practices and strategies;
  - (e) 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 who to tell when a boundary is crossed; and
  - (f) provision of information to parents and guardians about the protective behaviours curriculum, the Staff Code of Conduct and when, how and who to tell when they have concerns about grooming or child abuse.
- 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 report breaches and suspected breaches of the Staff Code of Conduct, other than those subject to mandatory reporting obligations, to the Principal or chair of the governing body;
  - (b) that staff must understand and comply with their mandatory reporting obligations;
  - (c) 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 for Child Protection and Family Support is to be informed immediately;
  - (d) 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
  - (e) 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 9.3.
- 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 staff, the complainant is informed about the advocacy, support and other 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 the subject of the allegation, the complainant, affected students and their parents and guardians, and the wider school community.

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<sup>21</sup> *School Education Act 1999*, section 159(1)(j).

## **STANDARD 13: THE SUFFICIENCY OF SCHOOLS' FINANCIAL RESOURCES FOR PROVIDING EDUCATION OF THE KIND FOR WHICH REGISTRATION IS SOUGHT<sup>22</sup>**

- 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 appropriate ancillary services to ensure access to educational programmes for all students.

## **STANDARD 14: METHODS OF DISCIPLINE AND PUNISHMENT<sup>23</sup>**

- 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 student behaviour management policy explicitly forbids the use of any form of child abuse, corporal punishment or other degrading punishment<sup>24</sup>.
- 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.

## **DEFINITIONS**

### ***Advocacy and support***

Advocacy and support is acting alongside, or on behalf of, victims and survivors of child sexual abuse to support their rights and interests while providing tangible and practical support.

### ***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;
  - 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.

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<sup>22</sup> *School Education Act 1999*, section 159(1)(m).

<sup>23</sup> *School Education Act 1999*, section 159(1)(n) and *School Education Regulations 2000*, reg 131A.

<sup>24</sup> United Nations Convention on the Rights of the Child, articles 28 and 37; International Covenant on Civil and Political Rights, article 7; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: all of which have been ratified by Australia.

### **Child-safe environment**

A child-safe environment is one 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.

### **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**

- circumstances that pose a critical risk to the health, safety or wellbeing of one or more students or staff;
- incidents requiring school closure, lockdown, or reduction of number of students or staff attending;
- death, or 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;
- receipt of an allegation of child abuse, including but not limited to sexual abuse, against a student by a staff member or student or other person, 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 Code of Conduct suspected to be grooming behaviour.

### **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 Services.

### **Dispute**

Unresolved complaint escalated internally or externally, or both: from AS/NZS 10002:2014 *Guidelines for Complaint Management in Organizations*.

### **Early childhood teaching qualification**

The qualification must be both:

- (1) listed as an early childhood teaching qualification on the website of the Australian Children's Education and Care Quality Authority (ACECQA); and
- (2) either listed as an Initial Teacher Education Programme (ITEP) on the website of the Australian Institute of Teaching and School Leadership (AITSL) or approved by the Teacher Registration Board of Western Australia (TRBWA) as equivalent to an ITEP.

### **Grooming**

Actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child, to lower the child's inhibitions in preparation for engaging in sexual activity with the child.

### **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.

### **Unlawful discrimination**

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

The WA Act makes discrimination in education unlawful on the following grounds: race including colour, descent, ethnic or national origin or nationality, religious conviction, political conviction, sex (unless the school or boarding accommodation is established for students of one sex only), marital status, pregnancy, breast feeding, gender history, sexual orientation, age, family responsibility, family status, impairment, together with racial and sexual harassment. The Act defines most of these terms [in section 4]. A school conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed may discriminate in favour of adherents in good faith except on the grounds of race, impairment or age [section 73(3)]. Discrimination includes both direct and indirect forms but usually does not include measures designed to achieve equality or address special needs. Where accommodating the needs of a student with an impairment would cause unjustifiable hardship, discrimination against that student may be permissible [section 66(4)]. The Commonwealth Acts make education discrimination on the following grounds unlawful: race, colour, descent, national origin, ethnic origin, disability (in the absence of unjustifiable hardship), age, sex (unless the institution is single-sex), sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, breastfeeding, as well as sexual harassment and offensive behaviour based on racial hatred. As in the WA Act, discrimination includes both direct and indirect forms but typically does not include measures designed to achieve equality or address special needs.

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