

2022

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Education and Youth Affairs)

Education Amendment Bill 2022

Contents

	Page
Part 1	
Preliminary	
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
Part 2	
Education Act 2004—suspension, transfer, expulsion and exclusion of students	
4 Main objects of Act Section 8 (c) to (e)	3
5 Section 9 heading	3
6 Section 9	3

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	Page
7	New sections 10AA and 10AB 4
8	New chapter 2A 6
9	Suspension, exclusion or transfer of student by director-general Section 36 28
10	Sections 104 and 105 28
11	Student transfer register Section 146A 28
12	New chapter 10 29
13	Reviewable decisions Schedule 1, item 12 32
14	Dictionary, new definition of <i>Catholic system school</i> 33
15	Dictionary, definition of <i>compulsory education age</i> 33
16	Dictionary, definition of <i>decision-maker</i> 33
17	Dictionary, new definitions 34
18	Dictionary, definition of <i>exclusion</i> 34
19	Dictionary, new definitions 34
Part 3	Education Act 2004—non-government schools
20	Main objects of Act Section 8 (f) 36
21	Meaning of <i>education course</i> and <i>education provider</i> —Act Table 9A, items 1 and 2, column 3 36
22	Child of compulsory education age—school attendance requirement Section 10A (1) (b) 36
23	Child of compulsory education age—participation requirement Section 10D (1) (b) 37
24	Giving information notice Section 11C (2) (c) 37
25	Section 11C (2) (d) 37
26	Establishing government schools etc Section 20 (2) (b) and note 37
27	Section 20B heading 38
28	Section 20B (1) 38
29	Operation of government schools Section 21 (3) 38

Contents

	Page	
30	Education to be free	
	Section 26 (2) (a)	38
31	Section 26 (6), definition of <i>course money</i>	39
32	Approved educational courses for students at government schools	
	Section 31 (1)	39
33	Chapter 4	39
34	Offences on school premises	
	Section 147 (5), definition of <i>school premises</i>	88
35	Evidence—certificate signed by principal etc	
	Section 153A (2)	89
36	Declaration—COVID-19 emergency	
	Section 153B (2) (f) and (g)	89
37	New section 153C	90
38	Regulation-making power	
	Section 155 (3) and (4)	90
39	New part 10.1A	91
40	Section 313	101
41	Reviewable decisions	
	Schedule 1, items 13 to 21	101
42	Dictionary, note 2	102
43	Dictionary, definitions of <i>approved educational course</i> etc	102
44	Dictionary, definition of <i>boarding facilities</i>	102
45	Dictionary, new definitions	102
46	Dictionary, definition of <i>in-principle approval</i>	103
47	Dictionary, new definitions	103
48	Dictionary, definition of <i>non-government school</i>	104
49	Dictionary, new definitions	104
50	Dictionary, definition of <i>proposed opening day</i>	104
51	Dictionary, new definitions	105
52	Dictionary, definition of <i>registered non-government school</i>	105
53	Dictionary, new definition of <i>registered school</i>	105
54	Dictionary, definitions of <i>register of enrolments and attendances</i> and <i>register of non-government schools</i>	105
55	Dictionary, new definition of <i>registrable change</i>	106
56	Dictionary, definition of <i>registrar</i>	106

		Page
57	Dictionary, new definitions	106
58	Dictionary, definition of <i>school</i>	106
59	Dictionary, new definition of <i>show cause notice</i>	107
60	Dictionary, definition of <i>student member</i>	107
Part 4	Education Regulation 2005	
61	New part 1A	108
62	Section 2B	110
63	Part 3	111
64	New schedule 2	115
65	Dictionary, note 2	128
66	Dictionary, note 3	128
67	Dictionary, new definitions	128
Schedule 1	Consequential amendments	129
Part 1.1	ACT Teacher Quality Institute Act 2010	129
Part 1.2	Children and Young People Act 2008	129
Part 1.3	Crimes Act 1900	130
Part 1.4	Planning and Development Regulation 2008	130
Part 1.5	Rates Act 2004	131

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(As presented)

(Minister for Education and Youth Affairs)

Education Amendment Bill 2022

A Bill for

An Act to amend the *Education Act 2004* and the *Education Regulation 2005*,
and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Education Amendment Act 2022*.

4 **2 Commencement**

5 (1) Section 3, part 2 and section 61 commence on 1 July 2022.

6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see [Legislation Act](#), s 75 (1)).

8 (2) The remaining provisions commence on 1 January 2023.

9 **3 Legislation amended**

10 This Act amends the *Education Act 2004* and the *Education*
11 *Regulation 2005*.

12 *Note* This Act also amends other legislation (see sch 1).

1 **Part 2** **Education Act 2004—**
2 **suspension, transfer, expulsion**
3 **and exclusion of students**

4 **4 Main objects of Act**
5 **Section 8 (c) to (e)**

6 *substitute*

7 (c) to state the circumstances in which school attendance is not
8 required; and

9 (d) to provide for the management of unsafe and noncompliant
10 behaviour of students, including providing for suspension,
11 transfer, expulsion and exclusion of students; and

12 (e) to provide for the operation and governance of government
13 schools; and

14 (f) to provide for the registration of non-government schools; and

15 (g) to provide for the registration of children for home education.

16 **5 Section 9 heading**

17 *substitute*

18 **9 Meaning of *compulsory education age***

19 **6 Section 9**

20 *omit*

21 chapter

22 *substitute*

23 Act

7 **New sections 10AA and 10AB**

2 *in division 2.2.1, insert*

10AA Student movement register

- 3 (1) The director-general must keep a register (the *student movement register*) of changes in—
- 4 (a) the enrolment of students at schools in the ACT; and
- 5 (b) the registration of students for home education in the ACT.
- 6 (2) The principal of a school must record the information prescribed by
- 7 regulation in the student movement register for each of the following
- 8 (a *student movement event*):
- 9 (a) a student is enrolled at the school, having been previously—
- 10 (i) enrolled at another education provider; or
- 11 (ii) registered for home education, whether under this Act or a
- 12 corresponding law;
- 13 (b) a student's enrolment ends for any of the following reasons:
- 14 (i) the student is unenrolled from the school;
- 15 (ii) the student is enrolled at another education provider;
- 16 (iii) the student is registered for home education;
- 17 (iv) the school terminates the enrolment contract for the
- 18 student;
- 19 (v) the student is transferred, expelled or excluded from the
- 20 school under chapter 2A (Suspension, transfer, expulsion
- 21 and exclusion of students).
- 22
- 23

- 1 (3) The director-general must record the information prescribed by
2 regulation in the student movement register for each of the following
3 events (also a *student movement event*):
- 4 (a) a student is registered for home education, having been
5 previously—
- 6 (i) enrolled at an education provider; or
7 (ii) registered for home education under a corresponding law;
- 8 (b) the registration of a student for home education ends.
- 9 (4) Information to be recorded for a student movement event under this
10 section must be recorded within 5 days after the event happens.
- 11 (5) In this section:
- 12 *corresponding law* means a law of another State under which
13 children are registered for home education.
- 14 *Note* *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

15 **10AB Student movement register—procedures**

- 16 (1) The director-general must—
- 17 (a) establish procedures for recording information in the student
18 movement register; and
- 19 (b) tell principals of schools in the ACT about the procedures.
- 20 (2) A principal of a school who is recording information in the student
21 movement register under section 10AA must comply with the
22 procedures established under subsection (1).

1 **8 New chapter 2A**

2 *insert*

3 **Chapter 2A Suspension, transfer,**
4 **expulsion and exclusion of**
5 **students**

6 **Part 2A.1 Suspension, transfer, expulsion**
7 **and exclusion—generally**

8 **17B Meaning of *unsafe or noncompliant* behaviour—ch 2A**

9 (1) For this chapter, the behaviour of a student at a school is *unsafe or*
10 *noncompliant* if the behaviour—

11 (a) is persistently or disruptively noncompliant in a way that
12 reduces the safety or effectiveness of the learning environment
13 at the school; or

14 (b) otherwise poses an unacceptable risk to the safety or wellbeing
15 of—

16 (i) another student at the school; or

17 (ii) a member of staff of the school; or

18 (iii) someone else involved in the school's operation.

19 (2) To remove any doubt, a student's behaviour may be *unsafe or*
20 *noncompliant* even if the behaviour does not happen on school
21 premises or during school hours.

22 **Example**

23 bullying another student online

1 **17C** **Definitions—ch 2A**

2 In this chapter:

3 *decision-maker*, for a school, means—

4 (a) for a government school—the director-general; and

5 (b) for a Catholic system school—the director of Catholic
6 education; and

7 (c) for an independent school—the principal of the school.

8 *delegated principal*, for a government school or Catholic system
9 school, means a principal to whom the decision-maker for the school
10 has delegated their powers under section 17O.

11 *exclude*—

12 (a) a student at a government school, means exclude the student
13 from being enrolled at any government school under
14 section 17ZA; or

15 (b) a student at a Catholic system school, means exclude the student
16 from being enrolled at any Catholic system school under
17 section 17ZF.

18 *expel*, a student at a school, means expel the student from the school
19 under section 17U.

20 *suspend*, a student at a school, means suspend the student under
21 section 17H.

22 *transfer*, a student at a government school, means transfer the student
23 from the school to another government school under section 17P.

- 1 **17D Exhausting all reasonable alternatives**
- 2 If a person is required to exhaust all reasonable alternatives before
- 3 making a decision under this chapter in relation to a student at a
- 4 school, the person must—
- 5 (a) before making a decision to transfer or expel a student—be
- 6 satisfied that suspending the student would not be effective or
- 7 suitable; and
- 8 (b) be satisfied that no other alternative is likely to be suitable or
- 9 successful for managing the student’s unsafe or noncompliant
- 10 behaviour.
- 11 **17E Communicating with students and parents**
- 12 (1) This section applies if a person is required to tell a student, or give
- 13 their parents written notice, about a decision or proposed decision
- 14 under this chapter.
- 15 (2) The person must apply natural justice and procedural fairness and, in
- 16 particular, must—
- 17 (a) ensure the student and their parents are given sufficient
- 18 information about the decision-making process, in a language
- 19 and way that the student and their parents can understand, to
- 20 allow the student and their parents to effectively take part in the
- 21 decision-making process and have their views heard; and
- 22 (b) ensure the student has a parent, or someone else chosen by the
- 23 student, present when taking part in the decision-making
- 24 process.

- 1 **17F Notification not required in certain circumstances**
- 2 (1) This section applies if a person is required to give a written notice to
- 3 a parent of a student under this chapter.
- 4 (2) The written notice need not be given if the person is satisfied that—
- 5 (a) it would not be in the best interests of the student to give the
- 6 notice; or
- 7 **Example**
- 8 a court order prevents contact between a student and their parent
- 9 (b) it is not possible or reasonably practicable in the circumstances
- 10 to give the notice.
- 11 **Example**
- 12 despite reasonable efforts, contact details for a parent cannot be found
- 13 (3) If the student is an adult, the written notice—
- 14 (a) need not be given to a parent of the student; and
- 15 (b) must be given to the student.

16 **Part 2A.2 Suspension**

- 17 **17G Suspension to ensure safe and effective learning**
- 18 **environment**
- 19 A decision-maker for a school may suspend a student at the school
- 20 only for the purpose of ensuring a safe and effective learning
- 21 environment at the school.
- 22 **17H Suspension**
- 23 (1) The decision-maker for a school may suspend a student at the school
- 24 if satisfied—
- 25 (a) the student has engaged in unsafe or noncompliant behaviour;
- 26 and

Section 8

- 1 (b) the school has exhausted all reasonable alternatives to
2 suspending the student; and
- 3 (c) it is reasonable, proportionate and justifiable to suspend the
4 student considering all the circumstances, including any views
5 of the student and their parents about the proposed suspension.
- 6 (2) However, the decision-maker must not suspend a student unless—
- 7 (a) for a government school or Catholic system school with a
8 delegated principal—the delegated principal has complied with
9 the requirements for involving the student and their parents in
10 the decision-making process under section 17L; or
- 11 (b) for a government school or Catholic system school without a
12 delegated principal—the principal of the school recommends
13 the student be suspended; and
- 14 (c) for an independent school—the decision-maker has complied
15 with the requirements for involving the student and their parents
16 in the decision-making process under section 17L.
- 17 (3) The decision-maker for a government school or Catholic system
18 school without a delegated principal may suspend the student as
19 recommended by the principal of the school under section 17K, or
20 subject to any change the decision-maker considers reasonable,
21 proportionate and justifiable.

22 171 Suspension—notice

23 If the decision-maker for a school suspends a student, the
24 decision-maker must—

- 25 (a) tell the student, and give their parents written notice
26 (a *suspension notice*), about the suspension, including—
- 27 (i) the grounds for the suspension; and
- 28 (ii) the length of the suspension; and

- 1 (iii) how the school intends to support the student to continue
2 their education during the suspension; and
- 3 (b) for a government school or Catholic system school without a
4 delegated principal—tell the principal of the school about the
5 suspension, including any changes made to the principal’s
6 recommendation.

7 **17J Suspension—length**

- 8 (1) The suspension of a student is for the period, not longer than
9 20 school days, the decision-maker considers necessary to ensure a
10 safe and effective learning environment at the school.
- 11 (2) A suspension—
- 12 (a) begins on the later of the following:
- 13 (i) the day the decision-maker gives a suspension notice to the
14 student’s parents;
- 15 (ii) the day stated in the suspension notice; and
- 16 (b) ends on the earlier of the following:
- 17 (i) the end day stated in the suspension notice;
- 18 (ii) 20 school days after the suspension begins.
- 19 (3) A suspension must not start immediately after another suspension
20 ends.

21 **17K Suspension—government and Catholic system schools—**
22 **principal’s recommendation**

- 23 (1) This section applies to a student at a government school or a Catholic
24 system school without a delegated principal.
- 25 (2) The principal of the school may recommend to the decision-maker
26 for the school that the student be suspended.

- 1 (3) However, the principal must not make a recommendation unless the
2 principal has complied with the requirements for involving the
3 student and their parents in the decision-making process under
4 section 17L.
- 5 (4) The principal's recommendation must include the following
6 information about the proposed suspension:
- 7 (a) the grounds for the suspension, including details of—
- 8 (i) the student's unsafe or noncompliant behaviour; and
- 9 (ii) any reasonable alternatives to suspension and how they
10 have been exhausted;
- 11 (b) the length of the suspension;
- 12 (c) how the school intends to support the student to continue their
13 education during the period of suspension;
- 14 (d) the steps taken to involve the student and their parents in the
15 decision-making process under section 17L, and any views of
16 the student and their parents about the suspension.
- 17 (5) The principal's recommendation may include any other information
18 the principal considers would assist the decision-maker in deciding
19 whether to suspend the student.

20 **17L Suspension—involving student and parents**

- 21 (1) This section applies if—
- 22 (a) for a government school or Catholic system school with a
23 delegated principal—the delegated principal proposes to
24 suspend a student at the school; or
- 25 (b) for a government school or Catholic system school without a
26 delegated principal—the principal proposes to recommend the
27 suspension of a student under section 17K; or

- 1 (c) the principal of an independent school proposes to suspend a
2 student at the school.
- 3 (2) Before taking the proposed action, the principal must take reasonable
4 steps to tell the student, and give their parents written notice, about
5 the proposed suspension, including—
- 6 (a) the grounds for the suspension including details of—
- 7 (i) the student’s unsafe or noncompliant behaviour; and
- 8 (ii) any reasonable alternatives to suspending the student and
9 how they have been exhausted; and
- 10 (b) the length of the suspension; and
- 11 (c) how the school intends to support the student to continue their
12 education during the suspension; and
- 13 (d) the decision-making process for the suspension, and how the
14 student and their parents may take part in the process and have
15 their views heard.
- 16 (3) However, the principal may take the proposed action before giving
17 the parents written notice if—
- 18 (a) the student’s unsafe or noncompliant behaviour is exceptionally
19 serious; and
- 20 **Example—exceptionally serious behaviour**
21 the student was physically violent to another student or a member of staff
- 22 (b) the principal tells the student and their parents, orally, about the
23 proposed suspension, including—
- 24 (i) the information mentioned in subsection (2) (a) to (d); and
25 (ii) that the suspension starts immediately.

- 1 (4) If the principal takes the proposed action under subsection (3), the
2 principal must, as soon as possible, give the student's parents written
3 notice about the suspension, including the information mentioned in
4 subsection (2) (a) to (d).
- 5 (5) If a principal takes action under subsection (3) and a student is
6 suspended before any views of the student and their parents about the
7 suspension may be considered, the decision-maker may, after
8 considering the views of the student and their parents, revise the
9 suspension in any way the decision-maker considers reasonable,
10 proportionate and justifiable.
- 11 (6) If the decision-maker revises a suspension under subsection (5), the
12 decision-maker must tell the student, and give the student's parents a
13 revised suspension notice.

14 **17M Suspension—student's education and counselling**

- 15 (1) If a student at a school is suspended, the principal of the school must
16 ensure the student is given the materials and support needed to
17 continue their education during the period of suspension.
- 18 (2) If a student at a school is suspended for a total of 7 or more school
19 days in a school term (consecutively or otherwise), the principal of
20 the school must ensure that the student is given a reasonable
21 opportunity to attend counselling.

22 **17N Suspension—review of student's circumstances**

- 23 (1) If a student at a school is suspended, the principal of the school
24 must—
- 25 (a) review any reasonable adjustments in place for the student; and
26 (b) make any reasonable adjustments the principal considers would
27 support the student.

1 (2) In this section:

2 *adjustment*—see the *Disability Standards for Education 2005*
3 (Cwlth), section 3.3.

4 *reasonable*, in relation to an adjustment—see the *Disability*
5 *Standards for Education 2005* (Cwlth), section 3.4.

6 **170 Suspension—government and Catholic system schools—**
7 **delegation**

8 The decision-maker for a government school or Catholic system
9 school may delegate the decision-maker’s powers under this part in
10 relation to suspending a student at a school to the principal of the
11 school.

12 *Note* For laws about delegations, see the [Legislation Act](#), pt 19.4.

13 **Part 2A.3 Transfers between government**
14 **schools**

15 **17P Transfer**

16 (1) The director-general may transfer a student at a government school
17 (the *transferring school*) if satisfied—

18 (a) the student has engaged in unsafe or noncompliant behaviour;
19 and

20 (b) the transferring school has exhausted all reasonable alternatives
21 to transferring the student; and

22 (c) it is not in the best interests of 1 or more of the following for the
23 student to remain at the school:

24 (i) the student;

25 (ii) another student;

26 (iii) a member of staff of the school; and

- 1 (d) it is reasonable, proportionate and justifiable to transfer the
2 student considering all the circumstances, including any views
3 of the student and their parents about the proposed transfer.
- 4 (2) However, the director-general must not transfer a student unless the
5 principal of the school recommends the student be transferred.
- 6 (3) The director-general may transfer the student as recommended by the
7 principal, or subject to any change the director-general considers
8 reasonable, proportionate and justifiable.
- 9 (4) For subsection (1) (c) (i), the director-general may consider whether
10 the relationship between the student and the school has deteriorated
11 to such an extent that remaining at the school is no longer in the
12 student's best interests.

13 **17Q Transfer—notice**

14 If the director-general transfers a student, the director-general must—

- 15 (a) tell the student, and give their parents written notice, about the
16 transfer, including—
- 17 (i) the grounds for the transfer; and
- 18 (ii) the school to which the student is to be transferred; and
- 19 (iii) the day the transfer takes effect; and
- 20 (b) tell the recommending principal about the transfer, including
21 any changes made to the principal's recommendation; and
- 22 (c) tell the principal of the school to which the student is being
23 transferred about the transfer, including—
- 24 (i) the grounds for the transfer; and
- 25 (ii) the school from which the student is being transferred; and
- 26 (iii) the day the transfer takes effect.

1 **17R Transfer—principal’s recommendation**

- 2 (1) The principal of a government school may recommend to the
3 director-general that a student at the school be transferred from the
4 school.
- 5 (2) However, the principal may make a recommendation only if the
6 principal has complied with the requirements for involving the
7 student and their parents in the decision-making process under
8 section 17S.
- 9 (3) The principal’s recommendation must include the following
10 information about the proposed transfer:
- 11 (a) the grounds for the transfer including details of—
- 12 (i) the student’s unsafe or noncompliant behaviour; and
- 13 (ii) any reasonable alternatives to transfer and how they have
14 been exhausted;
- 15 (b) the school to which the student is to be transferred;
- 16 (c) the day the transfer is to take effect;
- 17 (d) the steps taken to involve the student and their parents in the
18 decision-making process under section 17S, and any views of
19 the student and their parents about the transfer.
- 20 (4) The principal’s recommendation may include any other information
21 the principal considers would assist the director-general in deciding
22 whether to transfer the student.

1 **17S Transfer—involving student and parents**

2 Before recommending the transfer of a student under section 17R, the
3 principal of a government school must tell the student, and give their
4 parents written notice, about the transfer, including—

- 5 (a) the grounds for the proposed transfer including details of—
- 6 (i) the student’s unsafe or noncompliant behaviour; and
- 7 (ii) any reasonable alternatives to transferring the student and
8 how they have been exhausted; and
- 9 (b) the school to which it is proposed the student be transferred; and
- 10 (c) the day the proposed transfer is to take effect; and
- 11 (d) the decision-making process for the proposed transfer, and how
12 the student and their parents may take part in the process and
13 have their views heard.

14 **17T Transfer—counselling**

15 If a student at a government school is transferred, the principal of the
16 school must ensure the student is given a reasonable opportunity to
17 attend counselling.

18 **Part 2A.4 Expulsion from Catholic system**
19 **schools and independent**
20 **schools**

21 **17U Expulsion**

- 22 (1) The decision-maker for a Catholic system school or an independent
23 school may expel a student at the school if satisfied—
- 24 (a) the student has engaged in unsafe or noncompliant behaviour;
25 and

- 1 (b) the school has exhausted all reasonable alternatives to expelling
2 the student; and
- 3 (c) it is not in the best interests of 1 or more of the following for the
4 student to remain at the school:
- 5 (i) the student;
- 6 (ii) another student;
- 7 (iii) a member of staff of the school; and
- 8 (d) it is reasonable, proportionate and justifiable to expel the student
9 considering all the circumstances, including any views of the
10 student and their parents about the proposed expulsion.
- 11 (2) However, the decision-maker for a school may expel a student only
12 if—
- 13 (a) for a Catholic system school—the principal of the school
14 recommends the student be expelled; and
- 15 (b) for an independent school—the decision-maker has complied
16 with the requirements for involving the student and their parents
17 in the decision-making process under section 17X.
- 18 (3) The decision-maker for a Catholic system school may expel the
19 student as recommended by the principal, or subject to any change
20 the decision-maker considers reasonable, proportionate and
21 justifiable.
- 22 (4) For subsection (1) (c) (i), the decision-maker may consider whether
23 the relationship between the student and the school has deteriorated
24 to such an extent that remaining at the school is no longer in the
25 student’s best interests.

- 1 **17V Expulsion—notice**
- 2 If the decision-maker for a Catholic system school or an independent
3 school expels a student, the decision-maker must—
- 4 (a) tell the student, and give their parents written notice, about the
5 expulsion, including—
- 6 (i) the grounds for the expulsion; and
- 7 (ii) the day the expulsion takes effect; and
- 8 (b) for a Catholic system school—tell the principal about the
9 expulsion, including any changes made to the principal’s
10 recommendation.
- 11 **17W Expulsion—Catholic system schools—principal’s**
12 **recommendation**
- 13 (1) This section applies in relation to a student at a Catholic system
14 school.
- 15 (2) The principal of the school may recommend to the decision-maker
16 for the school that the student be expelled.
- 17 (2) However, the principal may make a recommendation only if the
18 principal has complied with the requirements for involving the
19 student and their parents in the decision-making process under
20 section 17X.
- 21 (3) The principal’s recommendation must include the following
22 information about the proposed expulsion:
- 23 (a) the grounds for the expulsion, including details of—
- 24 (i) the student’s unsafe or noncompliant behaviour; and
- 25 (ii) any reasonable alternatives to expulsion and how they
26 have been exhausted;
- 27 (b) the day the expulsion is to take effect;

1 (c) the steps taken to involve the student and their parents in the
2 decision-making process under section 17X, and any views of
3 the student and their parents about the expulsion.

4 (4) The principal's recommendation may include any other information
5 the principal considers would assist the decision-maker in deciding
6 whether to expel the student.

7 **17X Expulsion—involving student and parents**

8 (1) This section applies if—

9 (a) the principal of a Catholic system school proposes to
10 recommend the expulsion of a student under section 17W; or

11 (b) the principal of an independent school proposes to expel a
12 student at the school.

13 (2) Before taking the proposed action, the principal must tell the student,
14 and give their parents written notice, about the following:

15 (a) the grounds for the proposed expulsion including details of—

16 (i) the student's unsafe or noncompliant behaviour; and

17 (ii) any reasonable alternatives to expelling the student and
18 how they have been exhausted;

19 (b) the day the proposed expulsion is to take effect;

20 (c) the decision-making process for the proposed expulsion, and
21 how the student and their parents may take part in the process
22 and have their views heard.

23 **17Y Expulsion—counselling**

24 If a student at a Catholic system school or an independent school is
25 expelled, the principal of the school must ensure the student is given
26 a reasonable opportunity to attend counselling.

1 **Part 2A.5** **Excluding a student from a**
2 **system of schools**

3 **Division 2A.5.1** **Exclusion—government schools**

4 **17Z** **Application—div 2A.5.1**

5 This division applies in relation to a student if the student—

- 6 (a) is enrolled at a government school; and
7 (b) is not of compulsory education age.

8 **17ZA** **Exclusion—government schools**

9 (1) The director-general may exclude a student from enrolling at any
10 government school if satisfied—

- 11 (a) the student has engaged in unsafe or noncompliant behaviour;
12 and
13 (b) the school at which the student is enrolled has exhausted all
14 reasonable alternatives to excluding the student; and
15 (c) it is not in the best interests of 1 or more of the following for the
16 student to be enrolled at any government school:
17 (i) the student;
18 (ii) another student at a government school;
19 (iii) a member of staff of a government school; and
20 (d) it is reasonable, proportionate and justifiable to exclude the
21 student considering all the circumstances, including any views
22 of the student and their parents about the proposed exclusion.

23 (2) However, the director-general must not exclude a student unless the
24 principal of the school recommends the student be excluded.

1 (3) The director-general may exclude the student as recommended by the
2 principal, or subject to any change the director-general considers
3 reasonable, proportionate and justifiable.

4 (4) For subsection (1) (c) (i), the director-general may consider whether
5 the relationship between the student and the government school
6 system has deteriorated to such an extent that the student's enrolment
7 at any government school is no longer in the student's best interests.

8 **17ZB Exclusion—government schools—notice**

9 If the director-general excludes a student from enrolling at any
10 government school, the director-general must—

11 (a) tell the student, and give their parents written notice, about the
12 exclusion, including—

13 (i) the grounds for the exclusion; and

14 (ii) the day the exclusion takes effect; and

15 (b) tell the recommending principal about the exclusion, including
16 any changes made to the principal's recommendation.

17 **17ZC Exclusion—government schools—principal's**
18 **recommendation**

19 (1) The principal of a government school may recommend to the
20 director-general that a student at the school be excluded from
21 enrolling at any government school.

22 (2) However, the principal may make a recommendation only if the
23 principal has complied with the requirements for involving the
24 student and their parents in the decision-making process under
25 section 17ZD.

26 (3) The principal's recommendation must include the following
27 information about the proposed exclusion:

- 1 (a) the grounds for the proposed exclusion including details of—
2 (i) the student’s unsafe or noncompliant behaviour; and
3 (ii) any reasonable alternatives to exclusion and how they
4 have been exhausted; and
5 (iii) any previous action taken under this chapter against the
6 student and the behaviour giving rise to the action;
7 (b) the day the exclusion is to take effect;
8 (c) the steps taken to involve the student and their parents in the
9 decision-making process under section 17ZD, and any views of
10 the student and their parents about the exclusion.
11 (4) The principal’s recommendation may include any other information
12 the principal considers would assist the director-general in deciding
13 whether to exclude the student from enrolling at any government
14 school.

15 **17ZD Exclusion—government schools—involving student and**
16 **parents**

17 Before recommending the exclusion of a student under section 17ZC,
18 the principal of the government school at which the student is enrolled
19 must tell the student, and give their parents written notice of the
20 following about the proposed exclusion:

- 21 (a) the grounds for the exclusion, including details of—
22 (i) the student’s unsafe or noncompliant behaviour; and
23 (ii) any reasonable alternatives to excluding the student and
24 how they have been exhausted;
25 (b) the day the exclusion is to take effect;
26 (c) options available for the student to continue their education after
27 the exclusion;

- 1 (d) the decision-making process for the exclusion, and how the
2 student and their parents may take part in the process and have
3 their views heard.

4 **17ZE Exclusion—government schools—ongoing education and**
5 **counselling**

6 If a student at a government school is excluded from enrolling at any
7 government school, the principal of the school at which the student is
8 enrolled must ensure the student is given—

- 9 (a) a reasonable opportunity to attend counselling; and
10 (b) information about options to continue their education after the
11 exclusion.

12 **Examples—options for continuing education after exclusion**

- 13 1 enrolment at a non-government school
14 2 distance education provided by another jurisdiction
15 3 enrolment at a vocational education training organisation

16 **Division 2A.5.2 Exclusion—Catholic system schools**

17 **17ZF Exclusion—Catholic system schools**

18 (1) The director of Catholic education may exclude a student from
19 enrolling at any Catholic system school if satisfied—

20 (a) the student has engaged in unsafe or noncompliant behaviour;
21 and

22 (b) the school at which the student is enrolled has exhausted all
23 reasonable alternatives to excluding the student; and

24 (c) it is not in the best interests of 1 or more of the following for the
25 student to be enrolled at any Catholic system school:

- 26 (i) the student;
27 (ii) another student at a Catholic school;

- 1 (iii) a member of staff of a Catholic school; and
- 2 (d) it is reasonable, proportionate and justifiable to exclude the
3 student considering all the circumstances, including any views
4 of the student and their parents about the proposed exclusion.
- 5 (2) However, the director must not exclude a student unless the principal
6 of the school recommends the student be excluded.
- 7 (3) The director may exclude the student as recommended by the
8 principal, or subject to any change the director considers reasonable,
9 proportionate and justifiable.
- 10 (4) For subsection (1) (c) (i), the director may consider whether the
11 relationship between the student and the Catholic school system has
12 deteriorated to such an extent that the student's enrolment at any
13 Catholic system school is no longer in the student's best interests.

14 **17ZG Exclusion—Catholic system schools—notice**

15 If the director of Catholic education excludes a student from enrolling
16 at any Catholic system school, the director must—

- 17 (a) tell the student, and give their parents written notice, about the
18 exclusion, including—
- 19 (i) the grounds for the exclusion; and
- 20 (ii) the day the exclusion takes effect; and
- 21 (b) tell the recommending principal about the exclusion, including
22 any changes made to the principal's recommendation.

- 1 **17ZH Exclusion—Catholic system schools—principal’s**
2 **recommendation**
- 3 (1) The principal of a Catholic system school may recommend to the
4 director of Catholic education that a student at the school be excluded
5 from enrolling at any Catholic system school.
- 6 (2) However, the principal may make a recommendation only if the
7 principal has complied with the requirements for involving the
8 student and their parents in the decision-making process under
9 section 17ZI.
- 10 (3) The principal’s recommendation must include the following
11 information about the proposed exclusion:
- 12 (a) the grounds for the exclusion including details of—
- 13 (i) the student’s unsafe or noncompliant behaviour; and
- 14 (ii) any reasonable alternatives to exclusion and how they
15 have been exhausted; and
- 16 (iii) any previous action taken under this chapter against the
17 student, including the behaviour giving rise to the action;
- 18 (b) the day the exclusion is to take effect;
- 19 (c) the steps taken to involve the student and their parents in the
20 decision-making process under section 17ZI, and any views of
21 the student and their parents about the exclusion.
- 22 (4) The principal’s recommendation may include any other information
23 the principal considers would assist the director in deciding whether
24 to exclude the student from enrolling at any Catholic system school.

- 1 **17ZI Exclusion—Catholic system schools—involving student**
2 **and parents**
- 3 Before recommending the exclusion of a student under section 17ZH,
4 the principal of a Catholic system school must tell the student, and
5 give their parents written notice, about the proposed exclusion,
6 including—
- 7 (a) the grounds for the exclusion, including details of—
- 8 (i) the student’s unsafe or noncompliant behaviour; and
- 9 (ii) any reasonable alternatives to excluding the student and
10 how they have been exhausted;
- 11 (b) the day the exclusion is to take effect;
- 12 (c) the decision-making process for the exclusion, and how the
13 student and their parents may take part in the process and have
14 their views heard.
- 15 **17ZJ Exclusion—Catholic system schools—counselling**
- 16 If a student at a Catholic system school is excluded from enrolling at
17 any Catholic system school, the principal of the school must ensure
18 the student is given a reasonable opportunity to attend counselling.
- 19 **9 Suspension, exclusion or transfer of student by**
20 **director-general**
21 **Section 36**
- 22 *omit*
- 23 **10 Sections 104 and 105**
- 24 *omit*
- 25 **11 Student transfer register**
26 **Section 146A**
- 27 *omit*

1 **12 New chapter 10**

2 *insert*

3 **Chapter 10 Transitional—Education**
4 **Amendment Act 2022**

5 **Part 10.1 Education Amendment**
6 **Act 2022—part 2**

7 **304 Definitions—pt 10.1**

8 In this part:

9 *commencement day* means the day the *Education Amendment*
10 *Act 2022*, part 2 commences.

11 *pre-amendment Act* means this Act, as in force immediately before
12 the commencement day.

13 **305 Government school suspensions**

14 (1) This section applies if—

15 (a) before the commencement day, a student at a government school
16 was suspended under the pre-amendment Act, section 36 (3)
17 (Suspension, exclusion or transfer of student by
18 director-general); and

19 (b) immediately before the commencement day, the suspension had
20 not ended.

21 (2) The pre-amendment Act continues to apply to the suspension.

1 306 Government school immediate suspensions

- 2 (1) This section applies if—
- 3 (a) before the commencement day, a student at a government school
4 was immediately suspended under the pre-amendment Act,
5 section 36 (6); and
- 6 (b) immediately before the commencement day, the immediate
7 suspension had not ended.
- 8 (2) The pre-amendment Act continues to apply to the immediate
9 suspension.

10 307 Government school exclusions

- 11 (1) This section applies if, before the commencement day, a student was
12 excluded from all government schools under the pre-amendment Act,
13 section 36 (3).
- 14 (2) The student is, on the commencement day, taken to be excluded from
15 enrolling at any government school under section 17ZA (Exclusion—
16 government schools).

17 308 Non-government school suspensions

- 18 (1) This section applies if—
- 19 (a) before the commencement day, a student at a non-government
20 school was suspended under the pre-amendment Act—
- 21 (i) section 104 (3) (Suspension, transfer or exclusion of
22 students—Catholic systemic schools); or
- 23 (ii) section 105 (2) (Suspension or exclusion of students—
24 other non-government schools); and
- 25 (b) immediately before the commencement day, the suspension had
26 not ended.
- 27 (2) The pre-amendment Act continues to apply to the suspension.

1 **309 Non-government school immediate suspensions**

- 2 (1) This section applies if—
- 3 (a) before the commencement day, a student at a non-government
- 4 school was immediately suspended under the pre-amendment
- 5 Act—
- 6 (i) section 104 (6); or
- 7 (ii) section 105 (5); and
- 8 (b) immediately before the commencement day, the immediate
- 9 suspension had not ended.
- 10 (2) The pre-amendment Act continues to apply to the immediate
- 11 suspension.

12 **310 Catholic systemic schools exclusions**

- 13 (1) This section applies if, before the commencement day, a student was
- 14 excluded from all Catholic systemic schools under the
- 15 pre-amendment Act, section 104 (3).
- 16 (2) The student is, on the commencement day, taken to be excluded from
- 17 enrolling at any Catholic system school under section 17ZF
- 18 (Exclusion—Catholic system schools).

19 **311 Student transfer register**

20 The student transfer register kept under the pre-amendment Act,

21 section 146A is, on the commencement day, taken to be the student

22 movement register under section 10AA.

Part 10.2 Transitional regulations

312 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Education Amendment Act 2022*.
- (2) A regulation may modify this chapter (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this chapter.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

Part 10.3 Expiry

313 Expiry—ch 10

This chapter expires 12 months after the day it commences.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

13 Reviewable decisions Schedule 1, item 12

substitute

12	17H	suspend student from a government school	parent of student	director-general
12A	17P	transfer student from a government school	parent of student	director-general
12B	17ZA	exclude student from enrolling at any government school	parent of student	director-general

-
- 1 **14 Dictionary, new definition of *Catholic system school***
- 2 *insert*
- 3 *at*—a student is a student *at* a school if the student is enrolled at the
- 4 school.
- 5 *Catholic system school* means a non-government school for which
- 6 the trustees of the Roman Catholic Church for the Archdiocese of
- 7 Canberra and Goulburn are the proprietors.
- 8 **15 Dictionary, definition of *compulsory education age***
- 9 *substitute*
- 10 *compulsory education age*—see section 9.
- 11 **16 Dictionary, definition of *decision-maker***
- 12 *substitute*
- 13 *decision-maker*—
- 14 (a) for a school, for chapter 2A (Suspension, transfer, expulsion and
- 15 exclusion of students)—see section 17C; or
- 16 (b) for part 6.1 (Notification and review of decisions)—see
- 17 section 140.
- 18 *delegated principal*, for a government school or Catholic system
- 19 school, for chapter 2A (Suspension, transfer, expulsion and exclusion
- 20 of students)—see section 17C.

- 1 **17 Dictionary, new definitions**
- 2 *insert*
- 3 *director of Catholic education* means the Director, Catholic
4 Education, Archdiocese of Canberra and Goulburn.
- 5 *exclude*, a student—
- 6 (a) for a student at a government school, for chapter 2A
7 (Suspension, transfer, expulsion and exclusion of students)—
8 see section 17C; or
- 9 (b) for a student at a Catholic system school, for chapter 2A
10 (Suspension, transfer, expulsion and exclusion of students)—
11 see section 17C.
- 12 **18 Dictionary, definition of *exclusion***
- 13 *omit*
- 14 **19 Dictionary, new definitions**
- 15 *insert*
- 16 *expel*, a student at a school, for chapter 2A (Suspension, transfer,
17 expulsion and exclusion of students)—see section 17C.
- 18 *independent school* means a non-government school that is not a
19 Catholic system school.
- 20 *principal*, of a non-government school, means—
- 21 (a) a person appointed to the position (including a person appointed
22 to act in the position) of principal of the school; or
- 23 (b) if no one is appointed to the position or the school has no
24 position by that name—the person responsible for the school’s
25 day-to-day management.

- 1 *school day*, for a school, means a day that is not—
- 2 (a) a Saturday or Sunday; or
- 3 (b) a public holiday in the ACT; or
- 4 (c) a day designated as a school holiday for the school; or
- 5 (d) any other day on which the school is not operating as a school.
- 6 **Example—day on which a school is not operating as a school**
- 7 pupil-free day
- 8 *student movement register*—see section 10AA.
- 9 *suspend*, a student at a school, for chapter 2A (Suspension, transfer,
- 10 expulsion and exclusion of students)—see section 17C.
- 11 *suspension notice*—see section 17I.
- 12 *transfer*, a student at a government school, for chapter 2A
- 13 (Suspension, transfer, expulsion and exclusion of students)—see
- 14 section 17C.
- 15 *transferring school*—see section 17P.
- 16 *unsafe or noncompliant*, behaviour for chapter 2A (Suspension,
- 17 transfer, expulsion and exclusion of students)—see section 17B.

1 **Part 3** **Education Act 2004—**
2 **non-government schools**

3 **20** **Main objects of Act**
4 **Section 8 (f)**

5 *substitute*

6 (f) to provide for the registration of non-government schools, and
7 ensure their compliance with registration standards; and

8 **21** **Meaning of *education course* and *education provider*—**
9 **Act**
10 **Table 9A, items 1 and 2, column 3**

11 *omit*

12 school

13 *substitute*

14 government or non-government school

15 **22** **Child of compulsory education age—school attendance**
16 **requirement**
17 **Section 10A (1) (b)**

18 *omit*

19 school

20 *substitute*

21 government or non-government school

1 **23 Child of compulsory education age—participation**
2 **requirement**
3 **Section 10D (1) (b)**

4 *omit*

5 school

6 *substitute*

7 government or non-government school

8 **24 Giving information notice**
9 **Section 11C (2) (c)**

10 *omit*

11 a school

12 *substitute*

13 a government or non-government school

14 **25 Section 11C (2) (d)**

15 *omit*

16 school

17 *substitute*

18 government or non-government school

19 **26 Establishing government schools etc**
20 **Section 20 (2) (b) and note**

21 *substitute*

22 (b) the levels of education to be provided by government schools.

1	27	Section 20B heading
2		<i>substitute</i>
3	20B	Impacts of closing or amalgamating government schools
4	28	Section 20B (1)
5		<i>omit</i>
6		a school
7		<i>substitute</i>
8		a government school
9	29	Operation of government schools
10		Section 21 (3)
11		<i>omit</i>
12		boarding facilities
13		<i>substitute</i>
14		residential boarding services
15	30	Education to be free
16		Section 26 (2) (a)
17		<i>omit</i>
18		course money
19		<i>substitute</i>
20		tuition fees

1 **31 Section 26 (6), definition of *course money***

2 *substitute*

3 *tuition fees*—see the *Education Services for Overseas Students*
4 *Act 2000* (Cwlth), section 7.

5 **32 Approved educational courses for students at**
6 **government schools**
7 **Section 31 (1)**

8 *after*

9 the school

10 *insert*

11 (an *approved educational course (government)*)

12 **33 Chapter 4**

13 *substitute*

14 **Chapter 4 Non-government schools**

15 **Part 4.1 Non-government schools—**
16 **principles**

17 **72 Principles—ch 4**

18 This chapter is based on the following principles:

19 (a) the non-government school sector consists of schools from a
20 range of different educational and religious philosophies;

21 (b) the variety of schools in the sector reflects the diversity of the
22 community in the ACT and the preferences of parents for a
23 particular style of education for their children;

- 1 (c) the non-government schools sector is committed to—
- 2 (i) developing the spiritual, physical, emotional and
- 3 intellectual welfare of its students; and
- 4 (ii) innovation, diversity and choice; and
- 5 (iii) maximising student outcomes; and
- 6 (iv) teacher, parent and student participation in school
- 7 education; and
- 8 (v) promoting the partnership between home and school; and
- 9 (vi) preparing students for their full participation in all aspects
- 10 of a democratic society.

11 **Part 4.2 Non-government schools—**

12 **administration**

13 **Division 4.2.1 Registrar of non-government schools**

14 **73 Registrar—appointment**

15 The Minister must appoint a person as the Registrar of

16 Non-Government Schools (the *registrar*).

17 *Note* For laws about appointments, see the [Legislation Act](#), pt 19.3.

18 **74 Registrar—functions**

19 The registrar has the following functions:

- 20 (a) to administer the registration of non-government schools and
- 21 keep the register of non-government schools;
- 22 (b) to develop an annual registration review program, in
- 23 collaboration with the registration standards advisory board;
- 24 (c) to carry out registration reviews of registered schools;

- 1 (d) any other function given to the registrar under this Act or another
2 territory law.

3 **Division 4.2.2 Registration standards advisory**
4 **board**

5 **75 Registration standards advisory board—establishment**

6 The Registration Standards Advisory Board is established.

7 **76 Registration standards advisory board—functions**

8 The registration standards advisory board has the following
9 functions:

- 10 (a) to advise the Minister about whether applications to register
11 non-government schools meet the criteria for registration;
- 12 (b) to assist the registrar in developing annual registration review
13 programs, including identifying registered schools for
14 registration reviews and areas of focus for registration reviews;
- 15 (c) to advise the Minister on matters relating to the registration
16 standards, including matters arising from registration reviews;
- 17 (d) to assist the registrar in advising the Minister about proposed
18 regulatory action against registered schools;
- 19 (e) to advise the Minister about potential improvements to the
20 registration standards;
- 21 (f) any other function given to the board under this Act or another
22 territory law.

23 **77 Registration standards advisory board—advice to**
24 **Minister**

25 The Minister may, at any time, direct the registration standards
26 advisory board to provide advice to the Minister about a matter
27 relating to the registration standards.

- 1 **78 Registration standards advisory board—membership**
- 2 (1) The registration standards advisory board consists of the following
- 3 members appointed by the Minister:
- 4 (a) a chair;
- 5 (b) at least 1 and not more than 3 members chosen by the Minister;
- 6 (c) 1 member nominated by the director-general;
- 7 (d) 1 member nominated by the Association of Independent Schools
- 8 of the ACT;
- 9 (e) 1 member nominated by Catholic Education, Archdiocese of
- 10 Canberra and Goulburn.
- 11 *Note* For laws about appointments, see the [Legislation Act](#), pt 19.3.
- 12 (2) The Minister may appoint a member only if—
- 13 (a) satisfied that the person has qualifications, expertise and
- 14 experience relevant to the functions of the board; and
- 15 (b) the person is registered under the *Working with Vulnerable*
- 16 *People (Background Checking) Act 2011* to engage in regulated
- 17 activities involving children; and
- 18 (c) any other requirements prescribed by regulation are met.
- 19 (3) Also, the Minister may appoint a person under subsection (1) (a)
- 20 or (b) only if—
- 21 (a) the Minister has consulted the following entities about the
- 22 appointment:
- 23 (i) the Association of Independent Schools of the ACT;
- 24 (ii) Catholic Education, Archdiocese of Canberra and
- 25 Goulburn; and

- 1 (b) the person is not any of the following:
- 2 (i) a public servant working in the directorate responsible for
- 3 administering this Act;
- 4 (ii) an employee of a registered school;
- 5 (iii) a member of the governing body of a registered school;
- 6 (iv) a director of a corporation that is the proprietor of a
- 7 registered school;
- 8 (v) a trustee of the Roman Catholic Church for the
- 9 Archdiocese of Canberra and Goulburn;
- 10 (vi) an employee of Catholic Education, Archdiocese of
- 11 Canberra and Goulburn;
- 12 (vii) an employee of the Association of Independent Schools of
- 13 the ACT.
- 14 (4) A member's conditions of appointment are the conditions stated in
- 15 the instrument of appointment.

16 **79 Registration standards advisory board—term of**

17 **appointment**

18 A member of the registration standards advisory board must be

19 appointed for a term not longer than 3 years.

20 *Note* A person may be reappointed to a position if the person is eligible to be

21 appointed to the position (see [Legislation Act](#), s 208 and dict,

22 def *appoint*).

- 1 **80 Registration standards advisory board—ending**
2 **appointment**
- 3 The Minister may end the appointment of a member of the
4 registration standards advisory board—
- 5 (a) for misconduct; or
- 6 (b) if the member is convicted or found guilty, in the ACT, of an
7 offence punishable by imprisonment for at least 1 year; or
- 8 *Note* A conviction does not include a spent conviction or an
9 extinguished conviction (see *Spent Convictions Act 2000*,
10 s 16 (c) (i) and s 19H (1) (c) (i)).
- 11 (c) if the member is convicted or found guilty, outside the ACT, of
12 an offence that, if committed in the ACT, would be punishable
13 by imprisonment for at least 1 year; or
- 14 (d) if the member fails to comply with section 83 (Registration
15 standards advisory board—disclosure of interests) without
16 reasonable excuse; or
- 17 (e) if the member is absent from 2 consecutive meetings of the
18 board, other than on leave approved by the chair; or
- 19 (f) for physical or mental incapacity, if the incapacity substantially
20 affects the exercise of the member’s functions.
- 21 **81 Registration standards advisory board—facilities etc**
- 22 The director-general must provide administrative support and
23 facilities for the registration standards advisory board.
- 24 **82 Registration standards advisory board—conduct of**
25 **meetings**
- 26 (1) Meetings of the registration standards advisory board are to be held
27 when and where the board decides.
- 28 (2) However, the board must meet at least 4 times each year.

- 1 (3) The board may conduct its proceedings (including its meetings) as it
2 considers appropriate.
- 3 (4) Business may be conducted at a meeting of the board only if at least
4 4 members are present.
- 5 (5) The board must keep minutes of its meetings.

6 **83 Registration standards advisory board—disclosure of**
7 **interests**

- 8 (1) This section applies to a member of the registration standards
9 advisory board if—
- 10 (a) the member has a direct or indirect interest in an issue being
11 considered, or about to be considered, by the board; and
- 12 (b) the interest could conflict with the proper exercise of the
13 member's functions in relation to the board's consideration of
14 the issue.
- 15 (2) As soon as practicable after the relevant facts come to the member's
16 knowledge, the member must disclose the nature of the interest to a
17 meeting of the board.
- 18 (3) The disclosure must be recorded in the board's minutes and, unless
19 the board otherwise decides, the member must not—
- 20 (a) be present when the board considers the issue; or
21 (b) take part in a decision of the board on the issue.

1 **Part 4.3** **Non-government schools—**
2 **registration**

3 **Division 4.3.1** **Non-government schools registration**
4 **standards**

5 **84** **Non-government schools registration standards**

6 A regulation may prescribe standards for the registration of
7 non-government schools (the *registration standards*), including
8 standards about—

- 9 (a) governance; and
10 (b) educational courses and educational programs; and
11 (c) safety and welfare of students; and
12 (d) other requirements for operation.

13 *Note* It is a condition of being registered that a non-government school must
14 comply with any registration standards and make and keep records about
15 complying with the registration standards (see s 93).

16 **85** **Registration standards guidelines**

- 17 (1) The registrar may make guidelines about how a registered school is
18 to comply with the registration standards (the *registration standards*
19 *guidelines*).
- 20 (2) The registration standards guidelines must be developed in
21 consultation with—
- 22 (a) the registration standards advisory board; and
23 (b) Catholic Education, Archdiocese of Canberra and Goulburn;
24 and
25 (c) the Association of Independent Schools of the ACT; and

- 1 (d) the proprietor of any registered school that is not either—
2 (i) a Catholic system school; or
3 (ii) a member of the Association of Independent Schools of
4 the ACT.
- 5 (3) A registration standards guideline is a notifiable instrument.

6 **Division 4.3.2 In-principle approval for registration**

7 **86 In-principle approval—application**

- 8 (1) A person may apply for in-principle approval to register a
9 non-government school if the person is—
10 (a) the proposed proprietor of the school; and
11 (b) a corporation.
- 12 (2) The application must be in writing and include—
13 (a) the following information for each campus at which the person
14 proposes to operate the school (a *proposed campus*):
15 (i) the location of the campus;
16 (ii) the day the school is to begin operating from the campus
17 (the *proposed starting day*);
18 (iii) the levels of education to be provided at the campus;
19 (iv) the day each level of education is to start being provided
20 at the campus;
21 (v) whether residential boarding services are to be provided at
22 the campus; and
23 (b) evidence that there is, or is likely to be, demand in the
24 community for the proposed school; and
25 (c) any information or documents prescribed by regulation.

- 1 (3) A proposed starting day must be at least 2 years, but not more than
2 4 years, after the day the application is made.
- 3 (4) If the Minister receives an application, the registrar must give public
4 notice of the following:
- 5 (a) that an application has been made;
- 6 (b) the information mentioned in subsection (2) (a);
- 7 (c) how a person may make submissions about the application to
8 the Minister, including the day, at least 60 days after notice is
9 given, by which a submission must be made.

10 **87 In-principle approval—further information**

- 11 (1) The Minister may, by written notice, require an applicant to give the
12 Minister further information that the Minister reasonably needs to
13 decide the application within a stated time.
- 14 (2) If the applicant does not comply with a requirement in the notice, the
15 Minister may refuse to consider the application further.

16 **88 In-principle approval—decision on application**

- 17 (1) The Minister may approve the application only if satisfied it is
18 appropriate to issue the in-principle approval for registration of a
19 non-government school, having regard to—
- 20 (a) the level of interest in the proposed school, including the
21 projected enrolments for the school; and
- 22 (b) any submissions made under section 86 (4) (c).
- 23 (2) The Minister must give the applicant—
- 24 (a) notice in writing of the decision; and
- 25 (b) if the Minister approves the application—an in-principle
26 approval for registration of the non-government school.

- 1 (3) The in-principle approval for registration of the non-government
2 school must include the following information for each proposed
3 campus:
- 4 (a) the location of the campus;
- 5 (b) the proposed starting day for the campus;
- 6 (c) the levels of education to be provided at the campus;
- 7 (d) the day each level of education is to start being provided at the
8 campus;
- 9 (e) whether residential boarding services are to be provided at the
10 campus;
- 11 (f) the day the in-principle approval expires.
- 12 (4) If the Minister is not satisfied under subsection (1), the Minister
13 must—
- 14 (a) refuse the application; and
- 15 (b) tell the applicant, in writing, about the refusal.
- 16 (5) The Minister must give public notice of the decision.
- 17 (6) An in-principle approval expires on the latest of the following:
- 18 (a) 2 years after the day it is issued;
- 19 (b) the latest proposed starting day for a campus of the school;
- 20 (c) any later day stated in the in-principle approval.

1 **Division 4.3.3 Registration**

2 **89 Registration—application**

- 3 (1) A person may apply to the Minister to register a non-government
4 school only if the person—
- 5 (a) is a corporation; and
- 6 (b) is the proposed proprietor of the non-government school; and
- 7 (c) holds an in-principle approval to register the school.
- 8 (2) The application must—
- 9 (a) be made at least 9 months before the proposed starting day for
10 the school; and
- 11 (b) be in writing; and
- 12 (c) set out any proposed change to the matters mentioned in
13 section 86 (2) (a) for which in-principle approval was given; and
- 14 (d) include the name and contact details of each key individual for
15 the applicant;
- 16 (e) include any information or documents prescribed by regulation.
- 17 (3) Despite subsection (2) (a), the application may be made less than
18 9 months before the proposed starting day with the written approval
19 of the Minister.
- 20 (4) If the Minister receives an application, the registrar must give public
21 notice of the following:
- 22 (a) that an application has been made;
- 23 (b) the information mentioned in subsection (2) (c).

1 **90 Registration—further information**

- 2 (1) The Minister may, by written notice, require an applicant to give the
3 Minister further information that the Minister reasonably needs to
4 decide the application, within a stated time.
- 5 (2) If the applicant does not comply with a requirement in the notice, the
6 Minister may refuse to consider the application further.

7 **91 Registration—referral to registration standards advisory
8 board**

- 9 (1) The Minister must refer an application for registration of a
10 non-government school to the registration standards advisory board.
- 11 (2) The board must—
- 12 (a) consider the application; and
- 13 (b) assess whether the proposed school would, if registered, comply
14 with the registration standards.
- 15 (3) The board may, by written notice, require an applicant to give the
16 board further information that the board reasonably needs to assess
17 the application, within a stated time.
- 18 (4) The board must—
- 19 (a) give the Minister a report of the board’s assessment; or
- 20 (b) if the board is unable to make an assessment because the
21 applicant has not complied with a notice under subsection (3)—
22 notify the Minister of that fact.
- 23 (5) After the Minister receives the report, the registrar must give public
24 notice of the report.

1 **92 Registration—decision on application**

- 2 (1) The Minister must approve an application for registration of a
3 non-government school if, after considering the board’s assessment
4 given under section 91, the Minister is satisfied that the proposed
5 school would, if registered, comply with the registration standards.
- 6 (2) If the Minister is not satisfied under subsection (1), or the board is
7 unable to make an assessment, the Minister must—
- 8 (a) refuse the application; and
9 (b) tell the applicant, in writing, about the refusal.

10 **93 Registration—conditions**

- 11 A non-government school’s registration is subject to the following
12 conditions (each of which is a *registration condition*):
- 13 (a) the school must comply with any registration standards;
14 (b) the school must make and keep records about complying with
15 any registration standards;
16 (c) the school must have a principal;
17 (d) any condition imposed by the Minister under section 125A
18 (Taking regulatory action);
19 (e) any other condition prescribed by regulation;
20 (f) any other condition the Minister considers appropriate.

21 **94 Registration—duration**

22 Registration of a school continues until the registration is cancelled
23 or surrendered.

24 *Note* Registration may be cancelled under s 125A.

- 1 **95 Registration—register and registration certificate**
- 2 (1) If the Minister approves an application to register a non-government
- 3 school, the registrar must—
- 4 (a) enter the school in the register of non-government schools; and
- 5 *Note* The registrar must record the information set out in s 106 (2).
- 6 (b) give the proprietor of the school a registration certificate for the
- 7 school.
- 8 (2) A registration certificate for a school must include—
- 9 (a) the name of the school; and
- 10 (b) the proprietor of the school, including their ACN or ABN; and
- 11 (c) for each campus at which the school is registered to operate
- 12 (a *registered campus*)—
- 13 (i) the location of the campus; and
- 14 (ii) the levels of education to be provided at the campus; and
- 15 (iii) whether residential boarding services are to be provided at
- 16 the campus; and
- 17 (d) the conditions on the registration; and
- 18 (e) any other information prescribed by regulation.
- 19 (3) The registration certificate may also include any other information
- 20 the registrar considers appropriate.

1 **Division 4.3.4 Amending registration**

2 **96 Proprietor must tell registrar about notifiable changes**

3 (1) This section applies if the proprietor of a registered school intends to
4 make any of the following changes to the operation of the school
5 (a *notifiable change*):

6 (a) stop operating at a registered campus;

7 (b) stop providing a level of education at a registered campus;

8 (c) stop providing residential boarding services at a registered
9 campus;

10 (d) restart operating at a previously registered campus within
11 2 years after stopping operating at the campus;

12 (e) restart providing a level of education at a registered campus
13 (or previously registered campus) within 2 years after stopping
14 providing the level of education at the campus;

15 (f) restart providing residential boarding services at a registered
16 campus (or previously registered campus) within 2 years after
17 stopping providing residential boarding services at the campus.

18 (2) However, this section does not apply if the change is an urgent
19 temporary change made in response to a natural disaster or other
20 unforeseeable emergency.

21 **Example—urgent temporary change**

22 a school building floods and the school moves an educational level to another
23 campus while the flood damage is repaired

24 *Note* For requirements about an urgent temporary change see s 103.

25 (3) The proprietor must give the registrar written notice of the change.

- 1 (4) The notice must—
- 2 (a) be given at least 6 months before the day the change to the
- 3 operation of the school is proposed to begin (the *proposed*
- 4 *change day*); and
- 5 (b) be in writing; and
- 6 (c) state the proposed change day; and
- 7 (d) include any information or documents prescribed by regulation.
- 8 (5) The proprietor must also tell the parents of each student at the school,
- 9 in writing, about the change, at least 6 months before the change
- 10 happens.
- 11 (6) If a proprietor tells the registrar about a notifiable change, the registrar
- 12 must—
- 13 (a) amend the register of non-government schools to reflect the
- 14 notifiable change; and
- 15 (b) give the proprietor of the school a revised registration certificate
- 16 reflecting the notifiable change.

17 **97 Proprietor must apply for registrable changes**

- 18 (1) This section applies if the proprietor of a registered school intends to
- 19 make any of the following changes (a *registrable change*):
- 20 (a) start operating the school at a new campus;
- 21 (b) start providing a new level of education at a registered campus;
- 22 (c) start providing residential boarding services at a registered
- 23 campus;
- 24 (d) transfer the school's registration to a new proprietor.

- 1 (2) However, this section does not apply if the change is—
2 (a) a notifiable change to the operation of the school; or
3 (b) an urgent temporary change made in response to a natural
4 disaster or other unforeseeable emergency.

5 *Note* For requirements about an urgent temporary change see s 103.

- 6 (3) The proprietor must apply to the Minister for amendment of the
7 school's registration.

8 **98 Registration amendment—application**

- 9 (1) An application for amendment of a school's registration must—
10 (a) be made at least 9 months before the day the change is proposed
11 to begin (the *proposed change day*); and
12 (b) be in writing; and
13 (c) state the proposed change day; and
14 (d) for an amendment to operate at a new campus, state—
15 (i) the location of the new campus; and
16 (ii) the levels of education the proprietor proposes the school
17 to provide at the new campus; and
18 (iii) whether the proprietor proposes the school provide
19 residential boarding services at the new campus; and
20 (iv) if not all proposed levels of education are to be provided
21 at the new campus on the proposed change day—the day
22 the proprietor proposes to start providing each level of
23 education at the new campus; and

- 1 (e) for an amendment to provide a new level of education at an
2 already registered campus, state—
- 3 (i) the new level of education to be provided; and
- 4 (ii) the registered campus where the new level of education is
5 to be provided; and
- 6 (f) for an amendment to provide new residential boarding services
7 at an already registered campus—state the registered campus
8 where the new residential boarding services are to be provided;
9 and
- 10 (g) for an amendment to transfer the school’s registration to a new
11 proprietor—
- 12 (i) state—
- 13 (A) the name of the proposed new proprietor; and
- 14 (B) the name and contact details of each key individual
15 for the proposed new proprietor; and
- 16 (ii) include evidence to show the proposed new proprietor
17 knows about and understands the purpose of the
18 application; and
- 19 (h) include any information or documents prescribed by regulation.
- 20 (2) Despite subsection (1) (a), the application may be made less than
21 9 months before the proposed change day with the written approval
22 of the Minister.
- 23 (3) If the Minister receives an application, the registrar must give public
24 notice of the following:
- 25 (a) that an application has been made;
- 26 (b) the information mentioned in subsection (1) (c) to (g);

- 1 (c) how a person may make submissions about the application to
2 the Minister, including the day, at least 60 days after notice is
3 given, by which a submission must be made.

4 **99 Registration amendment—further information**

- 5 (1) The Minister may, by written notice, require the applicant, or
6 proposed new proprietor, to give the Minister further information
7 within a stated time that the Minister reasonably needs to decide the
8 application.
- 9 (2) If the applicant does not comply with a requirement in the notice, the
10 Minister may refuse to consider the application further.

11 **100 Registration amendment—referral to registration
12 standards advisory board**

- 13 (1) The Minister must refer an application under section 97 to the
14 registration standards advisory board.
- 15 (2) The board must—
- 16 (a) consider the application; and
- 17 (b) assess whether the school as proposed to be changed or
18 transferred would, if registered, comply with the registration
19 standards.
- 20 (3) The board may, by written notice, require an applicant or proposed
21 new proprietor to give the board further information that the board
22 reasonably needs to assess the application, within a stated time.
- 23 (4) The board must—
- 24 (a) give the Minister a report of the board's assessment; or
- 25 (b) if the board is unable to make an assessment because the
26 applicant or proposed new proprietor has not complied with a
27 notice under subsection (3)—notify the Minister of that fact.

- 1 (5) After the Minister receives a report, the registrar must give public
2 notice of the report.

3 **101 Registration amendment—decision on application**

- 4 (1) The Minister must approve an application to amend a school's
5 registration if the Minister is satisfied that—

6 (a) after considering the board's assessment given under
7 section 100, the school as proposed to be changed or transferred
8 would, if registered, comply with the registration standards; and

9 (b) the proposed change is appropriate, having regard to—

10 (i) the level of interest in the school as proposed to be
11 changed, including the projected enrolments for the school
12 as proposed to be changed; and

13 (ii) any submissions made under section 98 (3) (c).

- 14 (2) If the Minister approves the application—

15 (a) the Minister must tell the applicant, in writing, about the
16 decision; and

17 (b) for an amendment to transfer the school's registration to a new
18 proprietor—tell the new proprietor, in writing, about the
19 decision; and

20 (c) the registrar must—

21 (i) amend the register of non-government schools to reflect
22 the registrable change; and

23 (ii) give a revised registration certificate reflecting the
24 registrable to—

25 (A) if the school's registration is to be transferred to a
26 new proprietor—the new proprietor; or

27 (B) in any other case—the proprietor of the school.

- 1 (3) If the Minister is not satisfied under subsection (1), or the board is
2 unable to make an assessment, the Minister must—
3 (a) refuse the application; and
4 (b) tell the applicant, in writing, about the refusal.

5 **102 Registration amendment—conditions**

- 6 (1) If the Minister amends a school’s registration, the Minister may also
7 impose or amend a registration condition for the school in any way
8 the Minister considers appropriate.
9 (2) However, the Minister must not amend a registration condition
10 requiring compliance with the registration standards.

11 **103 Urgent temporary change**

- 12 (1) The proprietor of a registered school must, in writing—
13 (a) tell the registrar within 5 days about any urgent temporary
14 change to the operation of the school made in response to a
15 natural disaster or other unforeseeable emergency; and
16 (b) keep the registrar informed about progress returning to the
17 arrangements for which the school is registered; and
18 (c) tell the registrar when the arrangements for which the school is
19 registered have been restored.
20 (2) The registrar may at any time require the change to be treated as a
21 notifiable change.

1 **Division 4.3.5 Registration offences**

2 **104 Offence—operate unregistered non-government school**

3 (1) A person must not operate a non-government school unless the school
4 is registered.

5 Maximum penalty: 50 penalty units.

6 (2) An offence against this section is a strict liability offence.

7 **105 Offence—operate registered school other than within**
8 **scope of registration**

9 (1) The proprietor of a registered school must not operate the school at a
10 campus unless the school is registered to operate at the campus.

11 Maximum penalty: 10 penalty units.

12 (2) The proprietor of a registered school must not provide a level of
13 education at a campus unless the school is registered to provide the
14 level of education at the campus.

15 Maximum penalty: 10 penalty units.

16 (3) The proprietor of a registered school must not provide residential
17 boarding services at a campus unless the school is registered to
18 provide residential boarding services at the campus.

19 Maximum penalty: 10 penalty units.

20 (4) An offence against this section is a strict liability offence.

1 **Division 4.3.6 Register of non-government schools**

2 **106 Register of registered non-government schools**

- 3 (1) The registrar must keep a register of registered schools.
- 4 (2) The register must include the following information for each
5 registered school:
- 6 (a) the name of the school;
- 7 (b) the proprietor of the school, including their ACN or ABN;
- 8 (c) the name and contact details of the principal of the school;
- 9 (d) for each registered campus—
- 10 (i) the location of the campus; and
- 11 (ii) the levels of education provided at the campus; and
- 12 (iii) whether residential boarding services are provided at the
13 campus;
- 14 (e) the conditions on the registration;
- 15 (f) details of any regulatory action taken against the proprietor of
16 the school in relation to the school;
- 17 (g) if the registration is cancelled or surrendered—the date of
18 cancellation or surrender;
- 19 (h) any other information prescribed by regulation.
- 20 (3) The information mentioned in subsection (2) must be made available
21 to the public.

22 **Example—made available to the public**
23 published on an ACT government website

- 1 **107 Proprietor must update details**
- 2 (1) If any of the following information for a registered school changes,
3 the proprietor of the school must tell the registrar about the change,
4 in writing, within 7 days after the change happens:
- 5 (a) the name or contact details of the principal of the school;
- 6 (b) the name or contact details of the chair of the school’s governing
7 body (if any).
- 8 (2) If either of the following changes happen, the proprietor of a
9 registered school must tell the registrar about the change, in writing,
10 within 28 days after the change happens:
- 11 (a) a person becomes a key individual for the proprietor;
- 12 (b) a person stops being a key individual for the proprietor.

13 **Part 4.4 Non-government schools—**
14 **registration reviews**

15 **Division 4.4.1 Reasons to carry out registration**
16 **review**

17 **108 Meaning of *registration review*—ch 4**

18 In this chapter:

19 *registration review*, of a registered school—

- 20 (a) means an assessment by the registrar of whether the school is
21 complying with this Act; and
- 22 (b) includes a review carried out in the following circumstances:
- 23 (i) under an annual registration review program;
- 24 (ii) after a concern is raised with the registrar about a
25 registered school’s compliance with this Act.

- 1 **109 Annual registration review program**
- 2 (1) The registrar must, before the end of each calendar year, prepare a
- 3 program for registration reviews of registered schools that the
- 4 registrar intends to conduct in the next calendar year (an *annual*
- 5 *registration review program*).
- 6 (2) In developing an annual registration review program, the registrar
- 7 must consult the registration standards advisory board, particularly in
- 8 relation to identifying—
- 9 (a) the registered schools to be reviewed during the year; and
- 10 (b) areas of focus for registration reviews during the year.
- 11 **110 Registration review after concern raised**
- 12 (1) Anyone may raise a concern with the registrar about a registered
- 13 school’s compliance with this Act.
- 14 (2) The registrar must take reasonable steps to consider each concern
- 15 raised with the registrar.
- 16 (3) The concern must be in writing and state—
- 17 (a) the nature of the concern, including the provision of the Act that
- 18 is the subject of the complaint (if known); and
- 19 (b) the name and address of the person raising the concern.
- 20 (4) However, the concern may be raised orally if the registrar is satisfied
- 21 that to do so is reasonable in all the circumstances.
- 22 (5) If the concern is raised orally, the registrar must make a written record
- 23 of the concern as soon as practicable after being told about the
- 24 concern.

- 1 (6) The registrar may make arrangements for people with communication
2 needs to ensure they have adequate opportunity to raise a concern.

3 *Note* A complaint may also be made to the human rights commission about
4 services for children and young people (see *Human Rights Commission*
5 *Act 2005*, s 40A).

6 **Division 4.4.2 Reasons to not carry out registration**
7 **review**

8 **111 Concern raised is frivolous etc**

9 The registrar need not carry out a registration review following a
10 concern being raised if satisfied that the concern—

- 11 (a) is frivolous, vexatious or was not made honestly; or
12 (b) lacks substance; or
13 (c) cannot be made under this Act; or
14 (d) would be better dealt with by another entity; or
15 (e) is otherwise not appropriate for the registrar to consider.

16 **Examples—concern not appropriate for the registrar to consider**

- 17 1 the matters in the concern are being dealt with by a court or tribunal
18 2 the matters in the concern have already been dealt with by the registrar

19 **112 Concern withdrawn**

- 20 (1) A person may withdraw a concern raised under section 110
21 (Registration review after concern raised) at any time by written
22 notice to the registrar.
23 (2) If the person has difficulty putting the notice in writing, the registrar
24 must give the person reasonable assistance to do so.
25 (3) If the person withdraws the concern, the registrar need not, but may,
26 take further action on the concern.

- 1 **113 Referral to school**
- 2 (1) This section applies in relation to a registration review for a school
3 other than a review carried out in accordance with an annual
4 registration review program.
- 5 (2) The registrar must refer the concern to the school, to be dealt with by
6 the school under its complaints handling procedures.
- 7 (3) However, the registrar need not refer the concern to the school if—
- 8 (a) the matter has already been considered by the school; or
- 9 (b) the registrar is satisfied that the nature or circumstances of the
10 matter are so serious or urgent that the matter should be
11 considered by the registrar or another entity.
- 12 (4) If the registration review was initiated by a person raising a concern,
13 the registrar must tell the person, in writing, about the referral.
- 14 (5) If the registrar refers the concern to the school, the registrar may
15 require the school to give the registrar a written report about—
- 16 (a) how the school investigated the concern; and
- 17 (b) the results of the school’s investigation; and
- 18 (c) any action taken, or proposed to be taken, in relation to the
19 concern.
- 20 **114 Referral to another entity**
- 21 (1) This section applies in relation to a concern raised under section 110
22 (Registration review after concern raised) if—
- 23 (a) the registrar considers that the act, service or conduct to which
24 a concern relates is a matter that could—
- 25 (i) have been complained about to another entity; and
- 26 (ii) be dealt with more conveniently or effectively by the other
27 entity; and

- 1 (b) the registrar considers it would be appropriate for the concern to
2 be referred to the other entity; and
- 3 (c) the registrar has consulted the other entity about the referral.
- 4 **Examples—other entities**
- 5 • the commissioner for fair trading
 - 6 • the human rights commission
- 7 (2) The registrar may—
- 8 (a) decide not to deal with, or further deal with, the concern; and
 - 9 (b) if paragraph (a) applies—must refer the concern, together with
10 any relevant documents or information in its possession or
11 control, to the other entity.
- 12 (3) The registrar must tell the person who raised the concern, in writing,
13 about the referral.
- 14 (4) If the registrar refers the concern to another entity, the registrar may
15 ask the other entity to give the registrar a written report about—
- 16 (a) the results of the entity’s investigation; and
 - 17 (b) any action taken, or proposed to be taken, in relation to the
18 concern.
- 19 (5) The registrar may refer a matter to the chief police officer if the
20 registrar suspects on reasonable grounds that it relates to a criminal
21 offence.

22 **Division 4.4.3 Carrying out registration review**

23 **115 Registration review procedure**

- 24 In carrying out a registration review, the registrar must—
- 25 (a) apply natural justice and procedural fairness; and
 - 26 (b) comply with the registration review guidelines.

- 1 **116 Registration review guidelines**
- 2 (1) The registrar must make guidelines about how a registration review
3 may be carried out (the *registration review guidelines*).
- 4 (2) The registration review guidelines must be developed in consultation
5 with—
- 6 (a) the registration standards advisory board; and
- 7 (b) Catholic Education, Archdiocese of Canberra and Goulburn;
8 and
- 9 (c) the Association of Independent Schools of the ACT; and
- 10 (d) the proprietor of any registered school that is not either—
- 11 (i) a Catholic system school; or
- 12 (ii) a member of the Association of Independent Schools of
13 the ACT.
- 14 (3) A registration standards guideline is a notifiable instrument.
- 15 **117 Proprietor etc to participate in registration review**
- 16 The proprietor of a registered school, and each other person involved
17 in the management or operation of the school, must participate
18 constructively in the registration review.
- 19 **118 Request for further information or verification**
- 20 (1) This section applies to a registration review for a school initiated by
21 a person raising a concern with the registrar.

- 1 (2) The registrar may, at any time, request the person to give the
2 registrar—
- 3 (a) further information about the concern raised; or
- 4 (b) a written statement verifying all or part of the concern.
- 5 *Note* It is an offence to make a false or misleading statement, give false or
6 misleading information or produce a false or misleading document
7 (see [Criminal Code](#), pt 3.4).
- 8 (3) However, the verification statement may be made orally if the
9 registrar is satisfied that to do so is reasonable in all the
10 circumstances.
- 11 (4) If the verification statement is made orally, the registrar must make a
12 written record of the statement as soon as practicable after receiving
13 the statement.
- 14 (5) If the registrar makes a request under this section, the registrar must
15 give the person a reasonable period to satisfy the request and may
16 extend the period, whether before or after it ends.
- 17 (6) If the person does not comply with the request, the registrar need not,
18 but may, take further action on the concern.

19 **119 Registrar's action on completing registration review**

- 20 (1) If the registrar has completed a registration review of a registered
21 school, the registrar may—
- 22 (a) if satisfied that the school has failed, is failing, or is at risk of
23 failing to comply with this Act—
- 24 (i) give the proprietor of the school information about how
25 the school may comply with the Act; or
- 26 (ii) give the proprietor of the school a compliance direction; or
- 27 (iii) refer the matter to the registration standards advisory
28 board to consider for regulatory action under section 123;
29 or

- 1 (b) if not satisfied that any action needs to be taken in relation to the
2 school—take no further action.
- 3 (2) If the registration review was initiated by a person raising a concern
4 about the school’s compliance with this Act, the registrar must tell the
5 person, in writing, about—
- 6 (a) the results of the review; and
7 (b) any action taken, or proposed to be taken, in relation to the
8 concern.

9 **Division 4.4.4 Compliance directions**

10 **120 Compliance directions**

- 11 (1) This section applies if the registrar is satisfied that a registered school
12 is failing to comply with a provision of this Act.
- 13 (2) The registrar may direct the proprietor of the school to take action to
14 ensure the school complies with this Act within a reasonable period
15 of time (a *compliance direction*).
- 16 (3) A compliance direction must be in writing and state—
- 17 (a) the provision of the Act that is not being complied with; and
18 (b) the action required; and
19 (c) the period of time for compliance with the direction; and
20 (d) that the Minister may take regulatory action against the
21 proprietor of the school under division 4.4.5 if the proprietor
22 does not comply with the Act.

1 **Division 4.4.5** **Regulatory action**

2 **121** **Meaning of *regulatory action*—ch 4**

3 In this chapter:

4 *regulatory action*, against the proprietor of a registered school, means
5 1 or more of the following actions:

- 6 (a) imposing, or amending, a condition on the school’s registration;
- 7 (b) cancelling the school’s registration;
- 8 (c) cancelling the school’s registration and disqualifying the
9 proprietor of the school from applying for registration of a
10 school for a stated period or until a stated thing happens.

11 **122** **Grounds for taking regulatory action**

12 The Minister may take regulatory action against the proprietor of a
13 registered school only if satisfied on reasonable grounds that—

- 14 (a) the school has contravened a condition of its registration; or
- 15 (b) the proprietor or the school has failed to comply with a provision
16 of this Act.

17 **123** **Registrar—referral to registration standards advisory
18 board**

19 (1) If the registrar believes on reasonable grounds that regulatory action
20 may be taken against the proprietor of a registered school, the
21 registrar must—

- 22 (a) refer the matter to the registration standards advisory board; and
- 23 (b) give the board any relevant registration review report.

- 1 (2) The board must—
- 2 (a) consider the matter; and
- 3 (b) assess what regulatory action may be appropriate to take against
- 4 the proprietor; and
- 5 (c) report the board’s assessment to the Minister.

6 **124 Notification of proposed regulatory action**

7 If, after considering the board’s report under section 123, the Minister

8 proposes taking regulatory action against the proprietor of a

9 registered school, the Minister must give the proprietor a written

10 notice (a *show cause notice*) stating—

- 11 (a) the grounds on which, under section 122, the Minister considers
- 12 regulatory action may be taken; and
- 13 (b) details of the proposed regulatory action; and
- 14 (c) that the proprietor may, within 14 days after the day the
- 15 proprietor is given the notice, give a written submission to the
- 16 Minister about the proposed regulatory action.

17 **125 Minister—referral to registration standards advisory**

18 **board**

- 19 (1) Before deciding whether to take regulatory action against the
- 20 proprietor of a registered school, the Minister must—
- 21 (a) refer the matter to the registration standards advisory board; and
- 22 (b) give the board—
- 23 (i) a copy of the show cause notice; and
- 24 (ii) any written submission received by the Minister in
- 25 response to the show cause notice.

- 1 (2) The registration standards advisory board must—
- 2 (a) consider the notice and any response; and
- 3 (b) assess whether the proposed regulatory action should be taken
- 4 against the proprietor; and
- 5 (c) report the board’s assessment to the Minister.
- 6 (3) In considering whether to take regulatory action against the
- 7 proprietor, the Minister must have regard to the board’s report.

8 **125A Taking regulatory action**

- 9 (1) This section applies if the Minister, after complying with section 124
- 10 and section 125, is satisfied on reasonable grounds that it is
- 11 appropriate to take the regulatory action.
- 12 (2) In deciding whether it is appropriate to take the regulatory action, the
- 13 Minister must have regard to the likely impact of the proposed
- 14 regulatory action on students at the registered school.
- 15 (3) The Minister may—
- 16 (a) if the proposed regulatory action is imposing or amending a
- 17 registration condition for the school—impose or amend the
- 18 condition; or
- 19 (b) if the proposed regulatory action is cancelling the school’s
- 20 registration—take any of the following actions:
- 21 (i) impose or amend a registration condition for the school;
- 22 (ii) cancel the registration; or

- 1 (c) if the proposed regulatory action is cancelling the school's
2 registration and disqualifying the proprietor of the school from
3 applying for a further registration—take any of the following
4 actions:
- 5 (i) the actions mentioned in paragraph (b);
- 6 (ii) cancel the school's registration and disqualify the
7 proprietor of the school from applying for a further
8 registration for a stated period or until a stated thing
9 happens.
- 10 (4) Before taking regulatory action against the proprietor of a registered
11 school under this section, the Minister must tell the proprietor, by
12 written notice (a *notice of regulatory action*)—
- 13 (a) the regulatory action that will be taken; and
- 14 (b) the day on which the regulatory action takes effect; and
- 15 (c) if the regulatory action will end on a particular day—the day;
16 and
- 17 (d) if the regulatory action will end in particular circumstances—
18 the circumstances.
- 19 (5) The notice of regulatory action may include any other information the
20 Minister considers appropriate.
- 21 (6) Regulatory action against the proprietor takes effect on the day stated
22 in the notice of regulatory action.
- 23 (7) In this section:
- 24 *proposed regulatory action* means regulatory action mentioned in a
25 show cause notice given to the proprietor of a registered school under
26 section 124.

1 **125B When cancellation takes effect**

- 2 (1) The cancellation of a school's registration does not take effect until
3 the cancellation becomes final.
- 4 (2) The cancellation of a school's registration becomes final when—
- 5 (a) the time for any appeal or review in relation to the decision has
6 ended; or
- 7 (b) any appeal or review in relation to the decision has been decided
8 or otherwise ended.

9 **125C Not taking regulatory action**

- 10 (1) This section applies if, after considering a submission under
11 section 124 (c) received from the proprietor of the registered school,
12 the Minister is satisfied on reasonable grounds that regulatory action
13 against the proprietor—
- 14 (a) need not be taken; or
- 15 (b) may be taken but, in all the circumstances, it is not appropriate
16 to take the action.
- 17 (2) The Minister must give the proprietor written notice telling the
18 proprietor that regulatory action will not be taken against the
19 proprietor in relation to the matters stated in the show cause notice.

1 **Part 4.5** **Non-government schools—**
2 **approved educational courses**
3 **and registers of enrolments and**
4 **attendances**

5 **125D Approved educational courses—registered schools**

- 6 (1) The principal of a registered school may approve an educational
7 course for students at the school that may be provided to the student
8 at a place other than the school (an *approved educational course*
9 *(non-government)*).
- 10 (2) An approval may be subject to conditions.
- 11 (3) However, the principal may approve an educational course at a place
12 only if satisfied that—
- 13 (a) the standard of the course is appropriate; and
14 (b) there are adequate facilities at the place for conducting the
15 course; and
16 (c) the place complies with any relevant territory laws about health
17 and safety standards.

18 **125E Meaning of *register of enrolments and attendances*—**
19 **pt 4.5**

20 In this part:

21 *register of enrolments and attendances* means—

- 22 (a) for a registered school—a register recording the following
23 information:
- 24 (i) the full name of each student enrolled at the school;
25 (ii) the attendance or nonattendance of each student at the
26 school on every day when the school is open for
27 attendance; and

1 (b) for an approved educational course (non-government)—
2 a register recording the following information:

- 3 (i) the full name of each student enrolled at the course;
- 4 (ii) a record of the attendance or nonattendance of each student
5 at the course on every day when the course is open for
6 attendance.

7 **125F Keeping register of enrolments and attendances—**
8 **registered schools**

9 (1) The principal of a registered school must keep a register of
10 enrolments and attendances for the school.

11 Maximum penalty: 10 penalty units.

12 (2) An offence against subsection (1) is a strict liability offence.

13 (3) The principal of a registered school commits an offence if the
14 principal—

15 (a) makes an entry in the register of enrolments and attendances for
16 the school; and

17 (b) is reckless about whether the entry is correct.

18 Maximum penalty: 10 penalty units.

19 **125G Producing registers of enrolments and attendances—**
20 **registered schools**

21 (1) An authorised person (non-government) may, by written notice,
22 require the principal of a school, within the time stated in the notice—

23 (a) to make the register available for inspection by the authorised
24 person (non-government); or

25 (b) to give information contained on the register that the authorised
26 person (non-government) requires.

- 1 (2) The principal must comply with the notice.
2 Maximum penalty: 50 penalty units.
- 3 (3) An authorised person (non-government) may examine and copy a
4 register of enrolments and attendances for a registered school.
- 5 (4) The principal of a registered school must take reasonable steps to
6 assist an authorised person (non-government) in exercising a function
7 under this section.
- 8 (5) An offence against this section is a strict liability offence.

9 **125H Keeping registers of enrolments and attendances—**
10 **approved educational courses (non-government)**

- 11 (1) A person giving an approved educational course (non-government)
12 must keep a register of enrolments and attendances for the course.
13 Maximum penalty: 10 penalty units.
- 14 (2) An offence against subsection (1) is a strict liability offence.
- 15 (3) A person giving an approved educational course (non-government)
16 commits an offence if the person—
- 17 (a) makes an entry in the register of enrolments and attendances for
18 the course; and
- 19 (b) is reckless about whether the entry is correct.
- 20 Maximum penalty: 10 penalty units.

21 **125I Producing registers of enrolments and attendances—**
22 **approved educational courses (non-government)**

- 23 (1) An authorised person (non-government) may, by written notice,
24 require a person giving an approved educational course, within the
25 time stated in the notice—
- 26 (a) to make the register available for inspection by the authorised
27 person (non-government); or

- 1 (b) to give information contained on the register that the authorised
2 person (non-government) requires.
- 3 (2) The person giving an approved educational course must comply with
4 the notice.
- 5 Maximum penalty: 50 penalty units.
- 6 (3) An authorised person (non-government) may examine and copy a
7 register of enrolments and attendances for an approved educational
8 course (non-government).
- 9 (4) A person giving an approved educational course (non-government)
10 must take reasonable steps to assist an authorised person
11 (non-government) in exercising a function under this section.
- 12 (5) An offence against this section is a strict liability offence.

13 **125J Nonattendance at registered schools**

14 If a student at a registered school has not been attending school
15 regularly, the principal of the school may, by written notice, require
16 the student's parents and the student to meet with an authorised
17 person (non-government) at a stated place and time.

18 **Part 4.6 Non-government schools—**
19 **authorised people**

20 **Division 4.6.1 Preliminary**

21 **125K Definitions—pt 4.6**

22 In this part:

23 *connected*—a thing is *connected* with an offence if—

- 24 (a) the offence has been committed in relation to it; or
25 (b) it will provide evidence of the commission of the offence; or

1 (c) it was used, is being used, or is intended to be used, to commit
2 the offence.

3 *occupier*, of premises, includes—

4 (a) a person believed on reasonable grounds to be an occupier of the
5 premises; and

6 (b) a person apparently in charge of the premises.

7 *offence* includes an offence that there are reasonable grounds for
8 believing has been, is being, or will be, committed.

9 *premises* includes land.

10 **Division 4.6.2** **Authorised people** 11 **(non-government)—generally**

12 **125L** **Meaning of *authorised person (non-government)***

13 In this Act:

14 *authorised person (non-government)* means the following people:

15 (a) a person appointed under section 125M;

16 (b) the registrar.

17 **125M** **Appointment**

18 (1) The registrar may appoint a person to be an authorised person
19 (non-government).

20 *Note* For laws about appointments, see the [Legislation Act](#), pt 19.3.

21 (2) A person may be appointed as an authorised person
22 (non-government) under subsection (1) only if—

23 (a) the person is an Australian citizen or a permanent resident; and

- 1 (b) the person is registered under the *Working with Vulnerable*
2 *People (Background Checking) Act 2011* to engage in regulated
3 activities involving children; and
- 4 (c) the registrar is satisfied that the person is a suitable person to be
5 appointed, having regard in particular to—
- 6 (i) any criminal convictions the person may have; and
7 (ii) the person’s employment record; and
- 8 (d) the person has satisfactorily completed adequate training to
9 exercise the powers of an authorised person (non-government).
- 10 (3) To remove any doubt, a person may be both an authorised person
11 (government) and an authorised person (non-government).

12 **125N Authorised people (non-government)—functions**

- 13 (1) An authorised person—
- 14 (a) has the functions given to the person under this Act; and
15 (b) is subject to the directions of the registrar in the exercise of the
16 functions.
- 17 (2) An authorised person must only exercise a function under this part for
18 the purpose of assisting the registrar in the exercise of the registrar’s
19 functions under part 4.4 (Non-government schools—registration
20 reviews).

21 **125O Identity cards**

- 22 (1) The registrar must give an authorised person (non-government) an
23 identity card stating the person’s name and that the person is an
24 authorised person (non-government).

- 1 (2) The identity card must show—
- 2 (a) a recent photograph of the person; and
- 3 (b) the card’s date of issue and expiry; and
- 4 (c) anything else prescribed by regulation.
- 5 (3) A person commits an offence if the person—
- 6 (a) stops being an authorised person (non-government); and
- 7 (b) does not return their identity card to the registrar as soon as
- 8 practicable, but within 21 days, after the day the person stops
- 9 being an authorised person (non-government).

10 Maximum penalty: 1 penalty unit.

- 11 (4) An offence against this section is a strict liability offence.

- 12 (5) Subsection (3) does not apply if the person’s identity card is—

- 13 (a) lost or stolen; or
- 14 (b) destroyed by someone else.

15 *Note* The defendant has an evidential burden in relation to the matters

16 mentioned in s (5) (see [Criminal Code](#), s 58).

17 **125P Authorised person (non-government) must show identity**

18 **card on exercising power of entry**

- 19 (1) If an authorised person (non-government) exercises a power under
- 20 this Act (other than a power under section 125U (Power to obtain
- 21 information)) that affects an individual, the authorised person
- 22 (non-government) must first show their authorised person
- 23 (non-government) identity card to the individual.

- 1 (2) If an authorised person (non-government) exercises a power under
2 this Act (other than a power under section 125U) that affects a person
3 other than an individual, the authorised person (non-government)
4 must first show their authorised person (non-government) identity
5 card to an individual the authorised person (non-government)
6 believes on reasonable grounds is an employee, officer or agent of the
7 person.

8 **Division 4.6.3 Powers**

9 **125Q Entry to premises**

- 10 (1) For this chapter, an authorised person (non-government) may—
- 11 (a) at any reasonable time, enter registered school premises to find
12 out whether the school is complying with this Act; or
- 13 (b) at any reasonable time, enter premises that the public is entitled
14 to use or that are open to the public (whether or not on payment
15 of money); or
- 16 (c) at any time, enter premises with the occupier's consent.
- 17 (2) However—
- 18 (a) if the premises are used to provide residential boarding
19 services—subsection (1) authorises entry only if—
- 20 (i) the entry is after 8 am and before 6 pm; and
- 21 (ii) the residents are given reasonable notice of the entry,
22 including the purpose of the entry; and
- 23 (iii) a member of staff of the school is present during the entry
24 and any exercise of powers under section 125T (General
25 powers on entry to premises); and
- 26 (b) in any other case—subsection (1) (a) and (b) do not authorise
27 entry into a part of the premises that is being used only for
28 residential purposes.

- 1 (3) An authorised person (non-government) may, without the consent of
2 the occupier of premises, enter land around the premises to ask for
3 consent to enter the premises.
- 4 (4) To remove any doubt, an authorised person (non-government) may
5 enter premises under subsection (1) without payment of an entry fee
6 or other charge.
- 7 (5) An authorised person (non-government) may, for subsection (1),
8 enter the premises with necessary assistance.
- 9 (6) In this section:
- 10 *at any reasonable time*, for entering registered premises, includes at
11 any time the school is open for operation.
- 12 *necessary assistance*, for an authorised person (non-government)
13 entering premises, includes the attendance of 1 or more people who,
14 in the opinion of the authorised person (non-government), have
15 knowledge or skills that could assist the authorised person
16 (non-government) to carry out their function.

17 **125R Production of identity card**

18 An authorised person (non-government) and any other person, other
19 than a police officer, who is accompanying the authorised person
20 (non-government), may not remain at premises entered under this part
21 if the authorised person (non-government) does not produce their
22 identity card when asked by the occupier.

23 **125S Consent to entry**

- 24 (1) This section applies if an authorised person (non-government) intends
25 to ask the occupier of premises to consent to the authorised person
26 (non-government) entering the premises.

- 1 (2) Before asking for the consent, the authorised person
2 (non-government) must—
- 3 (a) produce their identity card; and
4 (b) tell the occupier—
- 5 (i) the purpose of the entry; and
6 (ii) the reason for, and identity of, any other person
7 accompanying the authorised person (non-government);
8 and
9 (iii) that consent may be refused.
- 10 (3) If the occupier consents, the authorised person (non-government)
11 must ask the occupier to sign a written acknowledgment
12 (an *acknowledgment of consent*)—
- 13 (a) that the occupier was told—
- 14 (i) the purpose of the entry; and
15 (ii) the reason for, and identity of, any other person
16 accompanying the authorised person (non-government);
17 and
18 (iii) that consent may be refused; and
- 19 (b) that the occupier consents to the entry; and
20 (c) stating the time and date when consent was given.
- 21 (4) If the occupier signs an acknowledgment of consent, the authorised
22 person (non-government) must immediately give a copy to the
23 occupier.
- 24 (5) A court must find that the occupier did not consent to entry to the
25 premises by the authorised person (non-government) under this part
26 if—
- 27 (a) the question whether the occupier consented to the entry arises
28 in a proceeding in the court; and

1 (b) an acknowledgment of consent for the entry is not produced in
2 evidence; and

3 (c) it is not proved that the occupier consented to the entry.

4 **125T General powers on entry to premises**

5 (1) An authorised person (non-government) who enters premises under
6 this part may, for this Act, do 1 or more of the following in relation
7 to the premises or anything at the premises:

8 (a) examine anything;

9 (b) examine and copy, or take extracts from, documents relating to
10 a contravention, or possible contravention, of this Act;

11 (c) take photographs, films, or audio, video or other recordings;

12 (d) require the occupier, or anyone at the premises, to give
13 information, answer questions, or produce documents or
14 anything else (whether the information, document or other thing
15 is at the premises or elsewhere) that the occupier or person at the
16 premises has, or has access to, that are reasonably necessary to
17 exercise a function under this Act;

18 (e) require the occupier, or anyone else at the premises, to give the
19 authorised person (non-government) copies of documents
20 produced under paragraph (d) that are reasonably necessary to
21 exercise a function under this Act;

22 (f) require the occupier, or anyone else at the premises, to give the
23 authorised person (non-government) reasonable help to exercise
24 a power under this part.

25 (2) A person must take reasonable steps to comply with a requirement
26 made of the person under subsection (1) (d), (e) or (f).

27 Maximum penalty: 10 penalty units.

1 **125U Power to obtain information**

2 (1) An authorised person (non-government) may, in writing, require any
3 of the following people to give the authorised person
4 (non-government) information, or produce documents or anything
5 else, that the person has, or has access to, that are reasonably required
6 by the authorised person (non-government) for this Act:

7 (a) a proprietor of a non-government school;

8 (b) a member of staff of a non-government school;

9 (c) any other person who has, or has access to, information or
10 documents or anything else that is reasonably required by the
11 authorised person (non-government) to assess a registered school's
12 compliance with this Act.

13 **Example**

14 request and obtain by email a list of employees

15 (2) A person must take reasonable steps to comply with a requirement
16 made of the person under this section.

17 Maximum penalty: 10 penalty units.

18 **125V Abrogation of privilege against self-incrimination**

19 (1) A person is not excused from answering a question or providing
20 information or a document under this part on the ground that the
21 answer to the question, or the information or document, may tend to
22 incriminate the person or expose the person to a penalty.

23 (2) However, any information, document or thing obtained, directly or
24 indirectly, because of the giving of the answer or the production of
25 the document is not admissible in evidence against the person in a
26 civil or criminal proceeding, other than a proceeding for an offence
27 arising out of the false or misleading nature of the answer,
28 information or document.

1 **125W Warning to be given**

2 (1) Before requiring a person to comply with a requirement under
3 section 125T (1) (d) or (e) or section 125U, an authorised person
4 (non-government) must warn the person—

5 (a) that failure to comply constitutes an offence; and

6 (b) about the effect of section 125V.

7 (2) It is not an offence for an individual to refuse to answer a question
8 put by an authorised person (non-government) or provide information
9 or a document to an authorised person (non-government) under
10 section 125T (1) (d) or (e) or section 125U on the ground that the
11 question, information or document might tend to incriminate the
12 individual, unless the individual was first given the warning in
13 subsection (1) (b).

14 (3) Nothing in this section prevents an authorised person
15 (non-government) from obtaining and using evidence given to the
16 authorised person (non-government) voluntarily by any person.

17 **34 Offences on school premises**
18 **Section 147 (5), definition of *school premises***

19 *omit*

20 a school

21 *substitute*

22 a government or non-government school

1 **35 Evidence—certificate signed by principal etc**
2 **Section 153A (2)**

3 *substitute*

4 (2) A certificate that appears to be signed by the principal of a
5 government or non-government school, that states any of the
6 following matters, is evidence of the matters:

- 7 (a) that a stated child was or was not enrolled at the school;
8 (b) that a stated child did or did not attend the school.

9 (2A) A certificate that appears to be signed by a person conducting an
10 approved educational course, that states any of the following matters,
11 is evidence of the matters:

- 12 (a) that a stated child was or was not enrolled at the course;
13 (b) that a stated child did or did not attend the course.

14 **36 Declaration—COVID-19 emergency**
15 **Section 153B (2) (f) and (g)**

16 *substitute*

- 17 (f) section 125E, definition of *register of enrolments and*
18 *attendances*, paragraph (a) (ii) and (b) (ii);
19 (g) section 125J (Nonattendance at registered schools);
20 (ga) the *Education Regulation 2005*, schedule 2, standard 2.16
21 (Encouraging attendance);

- 1 **37** **New section 153C**
- 2 *insert*
- 3 **153C** **Extending in-principle approval—COVID-19 emergency**
- 4 (1) This section applies if—
- 5 (a) a declaration under section 153B (2) is in force; and
- 6 (b) an in-principle approval will, or is likely to, expire while the
- 7 declaration is in force.
- 8 (2) The Minister may, in writing, extend the period of the in-principle
- 9 approval for not longer than 12 months.
- 10 (3) This section expires on the day the *COVID-19 Emergency Response*
- 11 *Act 2020* expires.
- 12 **38** **Regulation-making power**
- 13 **Section 155 (3) and (4)**
- 14 *substitute*
- 15 (3) A regulation may apply, adopt or incorporate an instrument as in force
- 16 from time to time.
- 17 *Note* The text of an applied, adopted or incorporated law or instrument,
- 18 whether applied as in force from time to time or at a particular time, is
- 19 taken to be a notifiable instrument if the operation of the *Legislation Act*,
- 20 s 47 (5) or (6) is not disapplied (see s 47 (7)).
- 21 (4) The *Legislation Act*, section 47 (6) does not apply to an instrument
- 22 mentioned in subsection (3).

39 New part 10.1A*insert***Part 10.1A Education Amendment
Act 2022—pt 3****311A Definitions—pt 10.1A**

In this part:

commencement day means the day the *Education Amendment Act 2022*, part 3 commences.

pre-amendment Act means this Act, as in force immediately before the commencement day.

311B Appointment of registrar

An appointment of a Registrar of Non-Government Schools under the pre-amendment Act, section 77, that is in force immediately before the commencement day is, on the commencement day, taken to be an appointment of a registrar under section 73.

311C Register of non-government schools

The register of non-government schools kept under the pre-amendment Act, section 79 is, on the commencement day, taken to be the register of non-government schools under section 106.

**311D Application for in-principle approval for provisional
registration of school**

(1) This section applies if—

- (a) before the commencement day, a person applied for in-principle approval for provisional registration of a non-government school under the pre-amendment Act, section 83; and

- 1 (b) immediately before the commencement day, the application had
2 not been—
- 3 (i) withdrawn by the applicant; or
4 (ii) decided by the Minister.
- 5 (2) The in-principle application is, on the commencement day, taken to
6 be an application for in-principle approval for registration of a
7 non-government school under section 86.

8 **311E Application for in-principle approval for registration of**
9 **school at additional campus—generally**

- 10 (1) This section applies if—
- 11 (a) before the commencement day, a person applied for in-principle
12 approval for registration of a non-government school at an
13 additional campus under the pre-amendment Act, section 83;
14 and
- 15 (b) the school either—
- 16 (i) had not previously operated at the campus; or
17 (i) had operated at the campus, but not for 2 years or more
18 before the date of the application; and
- 19 (c) immediately before the commencement day, the application had
20 not been—
- 21 (i) withdrawn by the applicant; or
22 (ii) decided by the Minister.
- 23 (2) The application is, on the commencement day, taken to be an
24 application to amend the school’s registration under section 97.

- 1 **311F Application for in-principle approval for registration of**
2 **school at additional campus—within 2 years**
- 3 (1) This section applies if—
- 4 (a) before the commencement day, a person applied for in-principle
5 approval for registration of a non-government school at an
6 additional campus under the pre-amendment Act, section 83;
7 and
- 8 (b) the school had previously operated at the campus less than
9 2 years before the date of the application; and
- 10 (c) immediately before the commencement day, the application had
11 not been—
- 12 (i) withdrawn by the applicant; or
13 (ii) decided by the Minister.
- 14 (2) The application is, on the commencement day, taken to be notice to
15 the registrar under section 96.
- 16 **311G Application for in-principle approval for registration of**
17 **school at additional educational level—generally**
- 18 (1) This section applies if—
- 19 (a) before the commencement day, a person applied for in-principle
20 approval for registration of a non-government school at an
21 additional educational level under the pre-amendment Act,
22 section 83; and
- 23 (b) the school either—
- 24 (i) had not previously provided that level of education; or
25 (i) had provided that level of education, but not for 2 years or
26 more before the date of the application; and

1 (c) immediately before the commencement day, the application had
2 not been—

3 (i) withdrawn by the applicant; or

4 (ii) decided by the Minister.

5 (2) The application is, on the commencement day, taken to be an
6 application to amend the school's registration under section 97.

7 **311H Application for in-principle approval for registration of**
8 **school at additional educational level—within 2 years**

9 (1) This section applies if—

10 (a) before the commencement day, a person applied for in-principle
11 approval for registration of a non-government school at an
12 additional educational level under the pre-amendment Act,
13 section 83; and

14 (b) the school had previously provided that level of education less
15 than 2 years before the date of the application; and

16 (c) immediately before the commencement day, the application had
17 not been—

18 (i) withdrawn by the applicant; or

19 (ii) decided by the Minister.

20 (2) The application is, on the commencement day, taken to be notice to
21 the registrar under section 96.

22 **311I In-principle approval for provisional registration of**
23 **school**

24 (1) This section applies if, immediately before the commencement day,
25 a person has in-principle approval for provisional registration of a
26 non-government school under the pre-amendment Act, section 84.

- 1 (2) Subject to subsection (3), the in-principle approval is, on the
2 commencement day, taken to be in-principle approval under
3 section 88.
- 4 (3) The in-principle approval—
- 5 (a) expires on the later of the following:
- 6 (i) 2 years after the day the old in-principle approval was
7 given;
- 8 (ii) the proposed starting day; and
- 9 (b) is otherwise subject to the same conditions that applied to the
10 approval before the commencement day.

11 **311J Application for provisional registration of school**

- 12 (1) This section applies if—
- 13 (a) before the commencement day, a person applied for provisional
14 registration of a non-government school under the
15 pre-amendment Act, section 85; and
- 16 (b) immediately before the commencement day, the application had
17 not been—
- 18 (i) withdrawn by the applicant; or
- 19 (ii) decided by the Minister.
- 20 (2) The application is, on the commencement day, taken to be an
21 application for registration of a non-government school under
22 section 89.

1 **311K Provisional registration of a school**

2 (1) This section applies if, immediately before the commencement day,
3 a non-government school was provisionally registered under the
4 pre-amendment Act, section 86.

5 (2) Subject to subsection (3), the school is, on the commencement day,
6 taken to be registered under section 92.

7 (3) The school's registration—

8 (a) does not expire on the day stated in the provisional registration,
9 but continues until the registration is cancelled or surrendered;
10 and

11 (b) is subject to the conditions mentioned in section 93; and

12 (c) is otherwise subject to any conditions in the provisional
13 registration that are not inconsistent with the conditions
14 mentioned in section 93.

15 (4) The registrar must—

16 (a) enter the school in the register of non-government schools; and

17 (b) give the proprietor of the school a registration certificate for the
18 school in accordance with section 95.

19 **311L Application for registration of school**

20 (1) This section applies if—

21 (a) before the commencement day, a person applied for registration
22 of a non-government school under the pre-amendment Act,
23 section 87; and

24 (b) immediately before the commencement day, the application had
25 not been—

26 (i) withdrawn by the applicant; or

27 (ii) decided by the Minister.

- 1 (2) The application is, on the commencement day, taken to be an
2 application for registration of a non-government school under
3 section 89.

4 **311M Registration of school**

- 5 (1) This section applies if, immediately before the commencement, day
6 a non-government school was registered under the pre-amendment
7 Act, section 88.
- 8 (2) Subject to subsection (3), the school is, on the commencement day,
9 taken to be registered under section 92.
- 10 (3) The school's registration—
- 11 (a) does not expire on the day stated in the old registration, but
12 continues until the registration is cancelled or surrendered; and
- 13 (b) is subject to the conditions mentioned in section 93; and
- 14 (c) is otherwise subject to any conditions on the registration that are
15 not inconsistent with the conditions mentioned in section 93.
- 16 (4) The registrar must give the proprietor of the school a revised
17 registration certificate for the school in accordance with section 95.

18 **311N Application for registration of school at additional**
19 **campus—generally**

- 20 (1) This section applies if—
- 21 (a) before the commencement day, a proprietor of a registered
22 school applied for registration of the school at an additional
23 campus under the pre-amendment Act, section 88A; and
- 24 (b) the school either—
- 25 (i) had not previously operated at the campus; or
- 26 (i) had operated at the campus, but not for 2 years or more
27 before the date of the application; and

1 (c) immediately before the commencement day, the application had
2 not been—

3 (i) withdrawn by the applicant; or

4 (ii) decided by the Minister.

5 (2) The application is, on the commencement day, taken to be an
6 application to amend the school's registration under section 97.

7 **311O Application for registration of school at additional**
8 **campus—within 2 years**

9 (1) This section applies if—

10 (a) before the commencement day, a proprietor of a registered
11 school applied for registration of the school at an additional
12 campus under the pre-amendment Act, section 88A; and

13 (b) the school had previously operated at the campus less than
14 2 years before the date of the application; and

15 (c) immediately before the commencement day, the application had
16 not been—

17 (i) withdrawn by the applicant; or

18 (ii) decided by the Minister.

19 (2) The application is, on the commencement day, taken to be notice to
20 the registrar under section 96.

21 **311P Application for registration of school at additional**
22 **educational level—generally**

23 (1) This section applies if—

24 (a) before the commencement day, a proprietor of a registered
25 school applied for registration of the school at an additional
26 educational level under the pre-amendment Act, section 89; and

- 1 (b) the school either—
- 2 (i) had not previously provided that level of education; or
- 3 (i) had provided that level of education, but not for 2 years or
- 4 more before the date of the application; and
- 5 (c) immediately before the commencement day, the application had
- 6 not been—
- 7 (i) withdrawn by the applicant; or
- 8 (ii) decided by the Minister.
- 9 (2) The application is, on the commencement day, taken to be an
- 10 application to amend the school’s registration under section 97.

11 **311Q Application for registration of school at additional**

12 **educational level—within 2 years**

- 13 (1) This section applies if—
- 14 (a) before the commencement day, a proprietor of a registered
- 15 school applied for registration of the school at an additional
- 16 educational level under the pre-amendment Act, section 89; and
- 17 (b) the school had previously provided that level of education less
- 18 than 2 years before the date of the application; and
- 19 (c) immediately before the commencement day, the application had
- 20 not been—
- 21 (i) withdrawn by the applicant; or
- 22 (ii) decided by the Minister.
- 23 (2) The application is, on the commencement day, taken to be notice to
- 24 the registrar under section 96.

1 **311R Grounds for regulatory action**

- 2 (1) This section applies if the Minister—
- 3 (a) is satisfied on reasonable grounds that, within the 12 months
- 4 immediately before the commencement day, a condition of a
- 5 school’s registration under the pre-amendment Act, section 91
- 6 had been contravened; and
- 7 (b) the Minister had not cancelled the school’s registration in
- 8 relation to the contravention under the pre-amendment Act,
- 9 section 95.
- 10 (2) The Minister may take regulatory action against the proprietor of the
- 11 registered school in relation to the contravention under section 122.

12 **311S Register of enrolments and attendances—**

13 **non-government schools**

- 14 (1) A register of enrolments and attendances kept by the principal of a
- 15 registered school under the pre-amendment Act, section 99 is, on the
- 16 commencement day, taken to be a register of enrolments and
- 17 attendances under section 125E, definition of *register of enrolments*
- 18 *and attendances*, paragraph (a).
- 19 (2) A register of enrolments and attendances kept by a person conducting
- 20 an approved educational course (non-government) under the
- 21 pre-amendment Act, section 99 is, on the commencement day, taken
- 22 to be a register of enrolments and attendances under section 125E,
- 23 definition of *register of enrolments and attendances*, paragraph (b).

24 **311T Appointment of authorised persons (non-government)**

25 An appointment of an authorised person (non-government) under the

26 pre-amendment Act, section 119, that is in force immediately before

27 the commencement day is, on the commencement day, taken to be an

28 appointment of an authorised person (non-government) under

29 section 125M.

40 Section 313*substitute***313 Expiry—ch 10**

- (1) Part 10.1 expires 12 months after the day it commences.
- (2) The remainder of this chapter expires 12 months after the day this section commences.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

**41 Reviewable decisions
Schedule 1, items 13 to 21***substitute*

13	88	refuse in-principle approval	applicant for in-principle approval	Minister
14	92 (2)	refuse to register non-government school	applicant for registration of school	Minister
15	93	register non-government school subject to condition	applicant for registration of school	Minister
16	101 (3)	refuse to amend non-government school's registration	proprietor of non-government school	Minister
17	102 (1)	amend non-government school's registration subject to condition	proprietor of non-government school	Minister
18	120	give compliance direction	proprietor of non-government school	registrar

19	125A	take regulatory action	proprietor of non-government school	Minister
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1 **42 Dictionary, note 2**

2 *insert*

- 3 • corporation
4 • Corporations Act
5 • public notice

6 **43 Dictionary, definitions of *approved educational course***
7 **etc**

8 *substitute*

9 *approved educational course* means—

- 10 (a) an approved educational course (government); or
11 (b) an approved educational course (non-government).

12 *approved educational course (government)*—see section 31 (1).

13 *approved educational course (non-government)*—see
14 section 125D (1).

15 *authorised person (non-government)*—see section 125L.

16 **44 Dictionary, definition of *boarding facilities***

17 *omit*

18 **45 Dictionary, new definitions**

19 *insert*

20 *compliance direction*—see section 120 (2).

21 *connected*, for part 4.6 (Non-government schools—authorised
22 people)—see section 125K.

1 *contact details*, for a person, includes the person's home address,
2 postal address (if different from the home address), email address and
3 telephone number.

4 *governing body*, of a non-government school, means the body
5 responsible for the governance, conduct and management of the
6 school.

7 *government or non-government school* means a government school
8 or a non-government school.

9 **46 Dictionary, definition of *in-principle approval***

10 *substitute*

11 *in-principle approval*, for registration of a school, means in-principle
12 approval applied for under section 86.

13 **47 Dictionary, new definitions**

14 *insert*

15 *key individual* for a corporation, means an individual who—

16 (a) is an officer of the corporation within the meaning of the
17 [Corporations Act](#), section 9; or

18 (b) is responsible for executive decisions of the corporation; or

19 (c) is concerned with, or takes part in, the management of the
20 corporation; or

21 (d) manages or supervises the provision of school education for the
22 corporation under an arrangement with the corporation.

23 *levels of education*, provided by a school, means the year levels of
24 education provided by the school.

25 **Examples—year levels**

26 preschool, kindergarten, year 6

- 1 **48 Dictionary, definition of *non-government school***
- 2 *substitute*
- 3 *non-government school* means a school that is not a government
- 4 school.
- 5 **49 Dictionary, new definitions**
- 6 *insert*
- 7 *notice of regulatory action*—see section 125A (3).
- 8 *notifiable change*—see section 96 (1).
- 9 *occupier*, of premises, for part 4.6 (Non-government schools—
- 10 authorised people)—see section 125K.
- 11 *offence*, for part 4.6 (Non-government schools—authorised
- 12 people)—see section 125K.
- 13 *permanent resident*—see the [Australian Citizenship Act 2007](#)
- 14 (Cwlth), section 5.
- 15 *premises*, for part 4.6 (Non-government schools—authorised
- 16 people)—see section 125K.
- 17 *proposed campus*—see section 86 (2) (a).
- 18 *proposed change day*—
- 19 (a) for a notifiable change—see section 96 (4) (a); and
- 20 (b) for a registrable change—see section 98 (1) (a).
- 21 **50 Dictionary, definition of *proposed opening day***
- 22 *omit*

51 Dictionary, new definitions

insert

proposed starting day—see section 86 (2) (a) (ii).

proprietor, of a non-government school, means the entity that owns the school.

registered campus, of a registered school—see section 95 (2) (c).

52 Dictionary, definition of *registered non-government school*

substitute

registered non-government school means a non-government school registered under part 4.3 (Non-government schools—registration).

53 Dictionary, new definition of *registered school*

insert

registered school means a non-government school registered under part 4.3 (Non-government schools—registration).

54 Dictionary, definitions of *register of enrolments and attendances* and *register of non-government schools*

substitute

register of enrolments and attendances means—

- (a) for a government school—the register kept under section 32 for the school; and
- (b) for an approved educational course (government)—the register kept under section 32 for the course; and
- (c) for a registered non-government school—see section 125E; and
- (d) for an approved educational course (non-government)—see section 125E.

1 *register of non-government schools* means the register kept by the
2 registrar under section 106.

3 **55 Dictionary, new definition of *registrable change***

4 *insert*

5 *registrable change*—see section 97 (1).

6 **56 Dictionary, definition of *registrar***

7 *substitute*

8 *registrar*—see section 73.

9 **57 Dictionary, new definitions**

10 *insert*

11 *registration condition*—see section 93.

12 *registration review*, of a registered school, for chapter 4
13 (Non-government schools)—see section 108.

14 *registration review guidelines*—see section 116.

15 *registration standards*—see section 84.

16 *registration standards advisory board* means the Registration
17 Standards Advisory Board established under section 75.

18 *regulatory action*, against the proprietor of a registered school, for
19 chapter 4 (Non-government schools)—see section 121.

20 **58 Dictionary, definition of *school***

21 *substitute*

22 *school* means an institution providing 1 or more levels of education
23 from preschool to year 12.

1 **59 Dictionary, new definition of *show cause notice***

2 *insert*

3 *show cause notice*—see section 124.

4 **60 Dictionary, definition of *student member***

5 *omit*

1 **Part 4** **Education Regulation 2005**

2 **61** **New part 1A**

3 *insert*

4 **Part 1A** **Compulsory education**

5 **2AA** **Student movement register—Act, s 10AA**

6 (1) The following information is prescribed for the [Act](#),
7 section 10AA (2) (a):

8 (a) the name of the school;

9 (b) the name of the student;

10 (c) the day the student was enrolled at the school;

11 (d) if the student was previously—

12 (i) enrolled at another education provider—the name of the
13 education provider (if known); or

14 (ii) registered for home education—whether the student was
15 registered for home education in the ACT or another State
16 (if known);

17 *Note* **State** includes the Northern Territory (see [Legislation Act](#),
18 dict).

19 (e) the name and contact details of the student's parents.

20 (2) The following information is prescribed for the [Act](#),
21 section 10AA (2) (b):

22 (a) the name of the school;

23 (b) the name of the student;

24 (c) the day the enrolment ended;

- 1 (d) the reason the enrolment ended;
- 2 (e) if the student is, or is to be, enrolled at another education
3 provider—the name of the new education provider (if known);
- 4 (f) if the student is, or is to be, registered for home education—
5 whether the registration is in the ACT or another State
6 (if known);
- 7 (g) if the student is not to be enrolled at another education provider,
8 and is not to be registered for home education—the proposed
9 arrangements for the student’s education after the enrolment
10 ends (if known);
- 11 (h) the name and contact details of the student’s parents.
- 12 (3) The following information is prescribed for the [Act](#),
13 section 10AA (3) (a):
- 14 (a) the name of the student;
- 15 (b) the day the student was registered for home education;
- 16 (c) if the student was previously—
- 17 (i) enrolled at an education provider—the name of the
18 education provider (if known); or
- 19 (ii) registered for home education in another State—the State
20 where the student was registered for home education
21 (if known);
- 22 (d) the name and contact details of the student’s parents.

Section 62

- 1 (4) The following information is prescribed for the [Act](#),
2 section 10AA (3) (b):
- 3 (a) the name of the student;
- 4 (b) the day the registration ended;
- 5 (c) the reason the registration ended;
- 6 *Note* Registration for home education ends if the registration is cancelled
7 under the [Act](#), s 135, or expires and is not renewed under the [Act](#),
8 s 137.
- 9 (d) if the student is, or is to be, enrolled at an education provider—
10 the name of the education provider (if known); or
- 11 (e) if the student is, or is to be, registered for home education in
12 another State—the State where the student is to be home
13 educated (if known);
- 14 (f) if the student is not to be enrolled at an education provider, and
15 is not to be registered for home education in another State—the
16 proposed arrangements for the student's education after the
17 registration ends (if known);
- 18 (g) the name and contact details of the student's parents.

62 Section 2B

20 *substitute*

2B Requirements for provision of residential boarding services—Act, s 21 (3)

23 A government school that provides residential boarding services must
24 have policies for the provision of the residential boarding services
25 that comply with AS 5725:2015 (Boarding Standard for Australian
26 schools and residences) as in force from time to time.

27 *Note* AS 5725:2015 may be purchased at www.standards.org.au.

63 Part 3

substitute

Part 3 Non-government schools**5 Registration standards—Act, s 84**

The registration standards are set out in schedule 2.

6 In-principle approval application—Act, s 86 (2) (c)

The following information is prescribed:

- (a) the proposed name of the school (if known);
- (b) the applicant's name and contact details;
- (c) the applicant's ACN or ABN;
- (d) the name and contact details for the proposed principal of the school (if known);
- (e) any proposed educational courses, characteristics of the school, or objectives for the school that the applicant believes will assist the Minister's consideration of the application.

6A Registration application—Act, s 89 (2) (e)

The following information is prescribed:

- (a) the proposed name of the school (if known);
- (b) the applicant's name and contact details;
- (c) the applicant's ACN or ABN;

- 1 (d) evidence showing that the applicant is registered under the
2 *Australian Charities and Not-for-profits Commission Act 2012*
3 (Cwlth);
- 4 (e) evidence showing how the school proposes to comply with the
5 registration standards.

6 **6B Notifiable changes notice—Act, s 96 (4) (d)**

7 The following information is prescribed:

- 8 (a) for a change to stop operating the school at a registered
9 campus—the location of the campus;
- 10 (b) for a change to stop providing a level of education at a registered
11 campus—
- 12 (i) the level of education to be stopped; and
- 13 (ii) the campus where the level of education is to be stopped;
- 14 (c) for a change to stop providing residential boarding services at a
15 registered campus—the campus where the residential boarding
16 services are to be stopped;
- 17 (d) for a change to restart operating at a previously registered
18 campus—
- 19 (i) the location of the campus; and
- 20 (ii) the levels of education the proprietor proposes the school
21 provide at the campus; and
- 22 (iii) whether the proprietor proposes the school provide
23 residential boarding services at the campus; and
- 24 (iv) if not all proposed levels of education are to be provided
25 at the campus on the proposed change day—the day the
26 proprietor proposes to start providing each level of
27 education at the campus;

- 1 (e) for a change to restart providing a level of education at a
2 campus—
- 3 (i) the level of education to be provided; and
- 4 (ii) the campus where the new level of education is to be
5 provided;
- 6 (f) for a change to restart providing residential boarding services at
7 a campus—the campus where the new residential boarding
8 services are to be provided.

9 **6C Registration amendment application—Act, s 98 (1) (h)**

10 The following information is prescribed:

- 11 (a) the name of the school;
- 12 (b) the applicant's name and contact details;
- 13 (c) for an amendment to operate at a new campus—
- 14 (i) information about proximity of the new campus to existing
15 campus grounds (for example, the new campus is
16 adjoining the existing campus, the new campus shares a
17 public transport route with the existing campus); and
- 18 (ii) any proposed change to the location of the school's
19 administration office;
- 20 (d) for an amendment to stop operating at a registered campus—the
21 location of the campus;
- 22 (e) for an amendment to stop providing a level of education at a
23 registered campus—the education level;

- 1 (f) for an amendment to transfer the school's registration to a new
2 proprietor—
- 3 (i) the proposed new proprietor's name and contact details;
4 and
- 5 (ii) evidence showing that the new proprietor is a corporation;
6 and
- 7 (iii) the proposed new proprietor's ACN or ABN; and
- 8 (iv) evidence showing that the proposed new proprietor is
9 registered under the *Australian Charities and Not-for-*
10 *profits Commission Act 2012* (Cwlth);
- 11 (g) a summary of the reasons for the proposed amendment;
- 12 (h) evidence of consultation with students, parents and staff about
13 the proposed amendment.

14 **6D Applicant to update information**

15 If any information in an application mentioned in sections 6 to 6C
16 changes before the application is decided, the applicant must give the
17 Minister written notice of the details of the change.

64 New schedule 2*insert***Schedule 2 Non-government schools
registration standards**

(see s 5)

Part 2.1 Governance**2.1 Incorporation**

The proprietor of a registered school must be a corporation.

2.2 Not-for-profit

The proprietor of a registered school must be registered under the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth).

2.3 Governance structure

- (1) The proprietor of a registered school must ensure the governance structure of the school enables the school to—
 - (a) fulfill its legal obligations; and
 - (b) be financially viable; and
 - (c) operate safely.
- (2) The proprietor must ensure that the governance responsibilities of the governing body of the school are separate from the day-to-day control and management responsibilities of the principal of the school.

1 **2.4 Financial viability**

- 2 (1) The proprietor of a registered school must ensure that the school has
3 access to adequate financial resources for its viable operation.
- 4 (2) The proprietor must ensure that the school's funding model enables
5 delivery of the school's educational programs to the number of
6 students at the school, at the levels of education for which the school
7 is registered.
- 8 (3) The proprietor must ensure that the school's—
- 9 (a) finances are managed in accordance with the requirements of the
10 [Corporations Act](#); and
- 11 (b) financial records are audited annually; and
- 12 (c) financial records and audit reports are made available to the
13 registrar on request.

14 **2.5 Policies and procedures**

- 15 (1) The proprietor of a registered school must ensure that the school has
16 policies and procedures in place to ensure the school complies with
17 the registration standards.
- 18 *Note* In particular, a registered school must have—
- 19 (a) an enrolment policy (see standard 2.8); and
- 20 (b) a complaints policy (see standard 2.9); and
- 21 (c) a behaviour management policy (see standard 2.18).
- 22 (2) The proprietor must ensure that students, parents and staff are
23 consulted about the operation of the school's policies and procedures.
- 24 (3) The proprietor must ensure that—
- 25 (a) current and prospective students, parents and staff are made
26 aware of the school's policies and procedures; and

- 1 (b) the school's policies and procedures are made available to the
2 public; and

3 **Example—made available to the public**

4 published on the school's website

- 5 (c) the school's policies and procedures are made available to the
6 registrar on request.

7 **2.6 Annual statement**

8 (1) The proprietor of a registered school must ensure that a written
9 statement is prepared annually, describing how the school has
10 complied with the registration standards during the year.

11 (2) The proprietor must ensure that the school's annual statement is made
12 available to the public.

13 **Example—made available to the public**

14 published on the school's website

15 **2.7 Continuous improvement**

16 (1) The proprietor of a registered school must ensure that the school has
17 processes in place to ensure continuous improvement in the operation
18 of the school.

19 (2) The proprietor must ensure that the school has processes to—

20 (a) consult students, parents and staff about the operation of the
21 school, including its educational programs; and

22 (b) regularly review complaints and safety incidents; and

23 (c) plan, monitor and assess strategies for improving the operation
24 of the school.

- 1 (3) The proprietor must ensure that the school keeps written records of—
2 (a) the school’s processes for improving its operation; and
3 (b) how the strategies are to be monitored and assessed; and
4 (c) whether the strategies have been successful in improving the
5 operation of the school.

6 **2.8 Enrolment policy, procedures and contracts**

- 7 (1) The proprietor of a registered school must ensure that the school
8 has—
9 (a) a written enrolment policy; and
10 (b) written enrolment procedures; and
11 (c) a written enrolment contract.
- 12 (2) The proprietor must ensure that the school’s enrolment policy and
13 enrolment contract clearly state the grounds on which a student’s
14 enrolment may be ended.
- 15 (3) The proprietor must ensure that the school’s enrolment policy and
16 enrolment procedures—
17 (a) have regard to the effect on a student of ending the student’s
18 enrolment; and
19 (b) apply natural justice and procedural fairness.

20 *Note* A school must consult students, parents and staff about policies and
21 procedures and ensure they are available to current and prospective
22 students, parents and staff (see standard 2.5).

1 **2.9 Complaints policy and procedures**

- 2 (1) The proprietor of a registered school must ensure that the school
3 has—
- 4 (a) a written complaints policy; and
- 5 (b) written complaints procedures.
- 6 (2) The proprietor must ensure that the school’s complaints policy and
7 complaints procedures—
- 8 (a) include procedures for receiving, assessing, investigating and
9 resolving complaints; and
- 10 (b) take into account the impact of the issues involved in the
11 complaint on all students involved in the complaint; and
- 12 (c) apply natural justice and procedural fairness.

13 *Note* A school must consult students, parents and staff about policies and
14 procedures and ensure they are available to current and prospective
15 students, parents and staff (see standard 2.5).

16 **Part 2.2 Educational programs**

17 **2.10 Curriculum**

- 18 (1) The proprietor of a registered school must ensure that the school has
19 a curriculum framework in place for the organisation and
20 implementation of the school’s educational program.
- 21 (2) The proprietor of a school that is registered to provide a level of
22 education from kindergarten to year 10 must ensure the school’s
23 educational program complies with the requirements of at least 1 of
24 the following:
- 25 (a) the Australian curriculum;
- 26 (b) the International Baccalaureate Primary Years Program;
- 27 (c) the International Baccalaureate Middle Years Program;

- 1 (d) the Australian Steiner Curriculum Framework;
- 2 (e) the Montessori National Curriculum Framework;
- 3 (f) another curriculum recognised by ACARA.
- 4 (3) The proprietor of a school that is registered to provide a level of
5 education from year 11 to year 12 must ensure the school's
6 educational program complies with the requirements of at least 1 of
7 the following:
- 8 (a) the Board of Senior Secondary Studies;
- 9 (b) a diploma program authorised by the International
10 Baccalaureate;
- 11 (c) the *Education Act 1990* (NSW), section 12 (Curriculum for
12 Higher School Certificate candidates).
- 13 (4) The proprietor must ensure that the nature and content of its
14 educational courses are appropriate for the levels of education the
15 school is registered to provide.
- 16 (5) The proprietor must ensure that the school makes reasonable
17 adjustments to the way the curriculum is delivered for students with
18 disability and students with complex needs.
- 19 (6) A registered school's educational program may include, in addition
20 to the courses required under subsection (2) or (3), other courses,
21 programs, studies or subjects decided by the principal of the school.
- 22 (7) In this section:
- 23 *Australian curriculum* means the national curriculum as agreed by
24 the Ministerial Council and administered by ACARA under the
25 *Australian Curriculum, Assessment and Reporting Authority*
26 *Act 2008* (Cwlth).

1 *Australian Curriculum, Assessment and Reporting Authority*
2 (or *ACARA*) means the body established under the *Australian*
3 *Curriculum, Assessment and Reporting Authority Act 2008* (Cwlth),
4 section 5 (1).

5 *Board of Senior Secondary Studies* means the board established
6 under the *Board of Senior Secondary Studies Act 1997*, section 4 (1).

7 **2.11 Educational program accessibility**

8 (1) The proprietor of a registered school must ensure that the school
9 makes information about the school's educational program available
10 to students, parents and staff.

11 **Example—makes available**
12 publishes on the school's website

13 (2) The proprietor must ensure that the school consults students, parents
14 and staff about significant changes to the school's educational
15 program.

16 **2.12 Educational performance**

17 The proprietor of a registered school must ensure that—

18 (a) the educational performance of each student at the school is
19 assessed, monitored and recorded; and

20 (b) each student at the school, and their parents, have access to
21 information about the student's performance; and

22 (c) at least twice each year, the parents of each student at the school
23 are given a written report about the student's educational
24 performance and social development at the school.

1 **2.13 Student learning outcomes**

2 The proprietor of a registered school must ensure that the school—

- 3 (a) sets learning outcomes for all students at the school; and
- 4 (b) has processes in place to support all students at the school to
- 5 achieve their learning outcomes, including processes for making
- 6 reasonable adjustments to support learning outcomes for
- 7 students with disability and students with complex needs.

8 **Part 2.3 Safety and welfare**

9 **2.14 Protection from harm**

- 10 (1) The proprietor of a registered school must ensure that the school takes
- 11 all reasonable steps to protect the following people from harm:
- 12 (a) students at the school;
- 13 (b) members of staff of the school;
- 14 (c) other people involved in the school’s operation.
- 15 (2) The proprietor must take all reasonable steps to ensure that the school
- 16 has a safe and effective learning environment.

17 **2.15 National Principles for Child Safe Organisations**

18 The proprietor of a registered school must ensure that the school

19 complies with the National Principles for Child Safe Organisations as

20 in force from time to time.

21 *Note* The National Principles for Child Safe Organisations is accessible at

22 childsafeframework.gov.au.

1 **2.16 Encouraging attendance**

- 2 (1) The proprietor of a registered school must ensure that the school has
3 procedures in place to—
- 4 (a) ensure students attend school regularly; and
- 5 (b) help parents to encourage students to attend school regularly.
- 6 (2) The proprietor must ensure that, if the procedures are unsuccessful
7 for a student, the student and their parents are referred to support
8 services that encourage regular school attendance.

9 **2.17 Student movement register**

10 The proprietor of a registered school must ensure that the school has
11 procedures in place to ensure the principal of the school complies
12 with procedures established by the director-general under the [Act](#),
13 section 10AB (Student movement register—procedures).

14 **2.18 Behaviour management policy and procedures**

- 15 (1) The proprietor of a registered school must ensure that the school
16 has—
- 17 (a) a written behaviour policy; and
- 18 (b) written procedures about behaviour.
- 19 (2) The proprietor must ensure that the school’s behaviour policy—
- 20 (a) deals with the following:
- 21 (i) for a catholic system school—suspension, expulsion and
22 exclusion of students at the school;
- 23 (ii) for an independent school—suspension and expulsion of
24 students at the school; and
- 25 (b) is consistent with the [Act](#), chapter 2A (Suspension, transfer,
26 expulsion and exclusion of students); and

- 1 (c) has regard to the best interests of—
- 2 (i) the student whose behaviour is being considered; and
- 3 (ii) other students; and
- 4 (iii) members of staff at the school; and
- 5 (d) applies natural justice and procedural fairness.

6 *Note* A school must consult students, parents and staff about policies and
7 procedures and ensure they are available to current and prospective
8 students, parents and staff (see standard 2.5).

9 **Part 2.4 Other operational requirements**

10 **2.19 Compliance with territory and Commonwealth laws**

- 11 (1) The proprietor of a registered school must ensure that the school
12 complies with all territory and Commonwealth laws that apply to the
13 school.

14 **Examples—applicable territory and Commonwealth laws**

- 15 • *ACT Teacher Quality Institute Act 2010*
- 16 • *Australian Education Act 2013* (Cwlth)
- 17 • *Children and Young People Act 2008*
- 18 • *Disability Discrimination Act 1992* (Cwlth)
- 19 • *Discrimination Act 1991*
- 20 • *Education Act 2004*
- 21 • *Human Rights Act 2004*
- 22 • *Ombudsman Act 1989*
- 23 • *Privacy Act 1988* (Cwlth)
- 24 • *Senior Practitioner Act 2018*
- 25 • *Work Health and Safety Act 2011*
- 26 • *Working with Vulnerable People (Background Checking) Act 2011*

- 27 (2) The proprietor must ensure that the proprietor, and the school, comply
28 with the conditions of the school's registration.

- 1 (3) The proprietor must tell the registrar within 5 working days, in
2 writing, if any action is taken against the proprietor, or the school,
3 under a territory or Commonwealth law.
- 4 (4) The proprietor, and each other person involved in the management or
5 operation of the school, must comply with any lawful direction given
6 under a territory or Commonwealth law.
- 7 (5) The proprietor, and each other person involved in the management or
8 operation of the school, must make any record the school is required
9 to keep under a territory or Commonwealth law available to the
10 registrar on request.

11 **2.20 Suitability of key individuals for the proprietor**

- 12 (1) The proprietor of a registered school must ensure that each key
13 individual for the proprietor is a suitable person to be involved in the
14 governance or management of the school.
- 15 (2) A person is not suitable to be involved in the governance or
16 management of a registered school if the person—
- 17 (a) is not registered under the *Working with Vulnerable People*
18 *(Background Checking) Act 2011* to engage in regulated
19 activities involving children; or
- 20 (b) has been convicted or found guilty, in the ACT, of an offence
21 punishable by imprisonment for at least 1 year; or
- 22 *Note* A conviction does not include a spent conviction or an
23 extinguished conviction (see *Spent Convictions Act 2000*,
24 s 16 (c) (i) and s 19H (1) (c) (i)).
- 25 (c) has been convicted or found guilty, outside the ACT, of an
26 offence that, if committed in the ACT, would be punishable by
27 imprisonment for at least 1 year; or
- 28 (d) is or has been bankrupt or personally insolvent; or

- 1 (e) has been the subject of an adverse finding or action taken by a
2 court, tribunal, commission of inquiry, professional disciplinary
3 body or regulatory authority (in the Territory or elsewhere), if
4 the adverse finding or action relates to—
- 5 (i) dishonest, misleading or deceptive conduct; or
- 6 (ii) non-compliance with a legal obligation relating to the
7 provision of education; or
- 8 (iii) a breach of a duty (including a duty of disclosure).

9 2.21 Teaching staff

10 The proprietor of a registered school must ensure that each person
11 employed to teach at the school is an approved teacher under the *ACT*
12 *Teacher Quality Institute Act 2010*.

13 *Note* Approved teachers include registered teachers and people with a permit
14 to teach, but not if the registration or permit is suspended (see *ACT*
15 *Teacher Quality Institute Act 2010*, s 9).

16 2.22 Compliance with Working with Vulnerable People 17 (Background Checking) Act 2011

18 (1) The proprietor of a registered school must ensure that each person
19 carrying out a regulated activity for the school complies with the
20 requirements of the *Working with Vulnerable People (Background*
21 *Checking) Act 2011*.

22 (2) In this section:

23 *regulated activity*—see the *Working with Vulnerable People*
24 *(Background Checking) Act 2011*, section 8 (1).

25 **Examples—regulated activities**

- 26 • child education services
27 • child accommodation services
28 • counselling and support services for children
29 • commercial services for children

1 **2.23 Buildings, facilities and grounds**

2 The proprietor of a registered school must ensure that the school's
3 buildings, facilities and grounds comply with all territory and
4 Commonwealth laws that apply to the buildings, facilities or grounds,
5 including laws about planning, sustainability, building and work
6 health and safety.

7 **2.24 Educational facilities**

8 The proprietor of a registered school must ensure that the school's
9 educational facilities are—

- 10 (a) sufficient to enable the school to effectively provide the
11 educational program offered by the school; and
12 (b) suitable for the ages of the students attending the school.

13 **2.25 Residential boarding services**

14 The proprietor of a registered school that provides residential
15 boarding services must ensure that the residential boarding services
16 comply with AS 5725:2015 (Boarding Standard for Australian
17 schools and residences) as in force from time to time.

18 *Note* AS 5725:2015 may be purchased at www.standards.org.au.

19 **2.26 Emergency management plan**

- 20 (1) The proprietor of a registered school must ensure that the school has
21 an emergency management plan.
22 (2) The proprietor must ensure that, in developing the emergency
23 management plan, the school has regard to AS 3745-2010 (Planning
24 for emergencies in facilities) as in force from time to time.

25 *Note* AS 3745-2010 may be purchased at www.standards.org.au.

65 Dictionary, note 2

2 *insert*

- 3 • Commonwealth
- 4 • corporation
- 5 • Corporations Act
- 6 • the Territory

66 Dictionary, note 3

8 *insert*

- 9 • approved educational course (non-government) (see s 125D (1))
- 10 • Catholic system school
- 11 • educational course
- 12 • education provider (see s 9A)
- 13 • governing body
- 14 • independent school
- 15 • key individual
- 16 • proprietor

67 Dictionary, new definitions

18 *insert*

19 ***adjustment***—see the *Disability Standards for Education 2005*
20 (Cwlth), section 3.3.

21 ***reasonable***, in relation to an adjustment—see the *Disability*
22 *Standards for Education 2005* (Cwlth), section 3.4.

1 **Schedule 1** **Consequential amendments**

2 (see s 3)

3 **Part 1.1** **ACT Teacher Quality Institute**
4 **Act 2010**

5 **[1.1] Section 27 (2), definition of *home education***

6 *substitute*

7 *home education*—see the [Education Act 2004](#), dictionary.

8 **Part 1.2** **Children and Young People**
9 **Act 2008**

10 **[1.2] Section 731 (1) (f)**

11 *omit*

12 government school or non-government school

13 *substitute*

14 government or non-government school

15 **[1.3] Dictionary, new definitions of *government school* and**
16 ***government or non-government school***

17 *insert*

18 *government school*—see the [Education Act 2004](#), dictionary.

19 *government or non-government school*—see the [Education](#)
20 [Act 2004](#), dictionary.

1 **Part 1.3 Crimes Act 1900**

2 **[1.4] Dictionary, new definition of *government or***
3 ***non-government school***

4 *insert*

5 *government or non-government school*—see the [Education](#)
6 [Act 2004](#), dictionary.

7 **Part 1.4 Planning and Development**
8 **Regulation 2008**

9 **[1.5] Section 108 (1) (a) (i) and (ii)**

10 *substitute*

- 11 (i) if the land is to be used for a new non-government
12 school—the holder of an in-principle approval for
13 registration of a school at the location of the land; or
- 14 (ii) if the land is to be used for a new campus of a registered
15 non-government school—the proprietor of the
16 non-government school; or

17 **[1.6] Section 108 (4)**

18 *insert*

19 *in-principle approval*, for registration of a non-government school—
20 see the [Education Act 2004](#), section 86.

21 *non-government school*—see the [Education Act 2004](#), dictionary.

22 *proprietor*, of a non-government school—see the [Education](#)
23 [Act 2004](#), dictionary.

1 **Part 1.5** **Rates Act 2004**

2 **[1.7] Section 8 (1), definition of *rateable land*, paragraph (b) (vi)**

3 *omit*
4 school
5 *substitute*
6 non-government school

7 **[1.8] Section 8 (2), definition of *school***

8 *substitute*
9 *non-government school*—
10 (a) see the *Education Act 2004*, dictionary; and
11 (b) includes any playground belonging to, or used in relation to, the
12 school.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 7 April 2022.

2 Notification

Notified under the [Legislation Act](#) on 2022.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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