



**Department of Education Services
Non-government schools**

Procedures for establishing and registering non-government schools

2014

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1 Introduction

- 1.1 The procedures for the registration and renewal of registration of non-government schools are covered by Part 4 of the *School Education Act 1999* ("the Act").
- 1.2 Where these notes make any specific references to sections of the Act, the relevant section numbers from the Act are given.
- 1.3 Non-government schools can be registered as members of an approved system of schools or as non-system schools. The requirements for registration as a system school are covered by a system agreement entered into between the Minister for Education ("the Minister") and the specific requirements of an approved system and are not mentioned in this document. System schools are required to meet the same standards as those required for non-system schools.
- 1.4 Non-government schools are registered as providing educational programs for children in one or more of the following levels:
 - the pre-compulsory education period or any specified part of that period;
 - the compulsory education period or any specified part of that period. **[s. 156(3)]**
- 1.5 Definitions for the pre-compulsory and compulsory education periods are provided in the Act. **[ss. 5-6]**
- 1.6 Registration under the Act is a pre-requisite to the provision of funding and other support services by both the State and Australian Governments.
- 1.7 These notes do not cover the establishment and registration of institutions that enrol or intend to enrol full fee paying students in courses not covered by the *School Education Act 1999*. Separate criteria for such institutions are also available from the Department of Education Services ("the Department") (phone: 9441 1962).

2 Registration requirements

- 2.1 It is expected that each non-government school will be able to demonstrate through its stated educational philosophy, policy, organisation and curriculum that it will:
 - ensure a comprehensive education for all of its students to prepare them for participation in contemporary Australian society; and
 - protect the safety and welfare of its students at all times;
- 2.2 The Act refers to the following specific matters that the Minister needs to take into account in determining an application for the registration or re-registration of a non-government school:
 - (a) the location of the premises to be used by the school;
 - (b) the school's curriculum;
 - (c) the year levels of education to be provided;
 - (d) the number of days in each year on which the school is to be open for instruction;
 - (e) the qualifications of the teachers;
 - (f) the school buildings, if any;
 - (g) the facilities to be provided;
 - (h) the number of children to attend the school;

- (i) the enrolment and attendance procedures;
- (j) the means by which disputes and complaints about the provision of education at the school may be dealt with;
- (k) the arrangements (if any) for board and lodging for students on school premises or premises associated with the school;
- (l) the sufficiency of the school's financial resources; and
- (m) any other matters prescribed by the regulations. [s. 159(1)]

2.3 Before registering a non-government school, the Minister must also be satisfied that:

- (a) the constitution of the governing body of the school is satisfactory;
- (b) the members of the governing body are fit and proper persons to operate a school;
- (c) the school will meet any standards determined by the Minister under section 159;
- (d) the school will provide a satisfactory standard of education of the kind for which registration is sought;
- (e) the school will provide satisfactory levels of care for the children concerned;
- (f) the school will not have a detrimental effect on the ability of an existing school to function as a school; and
- (g) the school complies, or will be able to comply, with any written laws affecting the operation of the school. [s. 160(1)]

2.4 Specific details of the standards and other requirements relating to these matters are provided in the document, *Non-Government Schools in Western Australia: Registration Standards and Requirements 2014*.

2.5 It should be noted that any promotion of a proposed new school must be on the understanding and indication that commencement is dependent on approval of the proposal by the State Government through the new schools planning process described in the next section.

3. Registration process

3.1 Proposed new schools and significant changes to existing schools

3.1.1 The Minister can make an advance determination that if an application were made to register the proposed school or the proposed change of operations by an existing school the application would not be refused on the grounds that it was going to have a detrimental effect on any existing school/s. [s. 157(3)]

3.1.2 The proponents of each proposal for the establishment of new non-government schools or significant changes to existing non-government schools, for example, an extension from the primary to the secondary level, a move to a new location or the addition of another campus, can apply for an advance determination prior to proceeding with the detailed planning for the new school or the proposed change.

3.1.3 The Minister is advised on applications for an advance determination for proposed new or significantly changing non-government schools by the Non-Government Schools Planning Advisory Panel, which is an expert panel with members from within and outside government with educational, demographic and economic expertise.

- 3.1.4 Applications for an advance determination should be submitted at least eighteen months prior to the new school commencing or the proposed changes coming into effect. Applicants who intend to apply for a Australian Government capital grant or a State Government low interest loan to assist with the provision of facilities for the proposed new or significantly changing school should submit an application for advance determination at least two years in advance.
- 3.1.5 It is not mandatory to apply for an advance determination and proponents can proceed directly to a formal registration application. However, should applicants decide not to apply for an advance determination, they would risk having their application refused at a later stage of planning if it is deemed that the proposal will have a detrimental effect on the ability of any existing school/s located in the catchment area to continue to provide the educational programs it or they currently provide. The Minister has to consider regulation 130 of the *School Education Regulations 2000*, which deals with the matter of detrimental impact, and any relevant standard determined by the Minister under section 159 of the Act (eg the number of children to attend the school), when considering all applications for registration, whether or not an advance determination has been made.
- 3.1.6 Applications for an advance determination will be assessed against the following criteria, considered both separately and in conjunction with each other. Nevertheless, nothing contained in these criteria shall prevent the Minister from giving an advance determination to applications for special proposals that in the Minister's opinion are considered to be in the wider public interest.
- 3.1.6.1 The proposed school development is unlikely to have a significant negative impact on existing government and non-government schools in its proposed catchment area in the five years following its commencement as evidenced by:
- The likely significant reduction in enrolments or, as appropriate, projected enrolments;
 - The likely loss of staff or other resources sufficient to cause contraction of curriculum offerings to a point which would significantly jeopardise an existing school's educational program; or
 - The likely unplanned closure of a school, or identifiable section of a school (eg. kindergarten and pre-primary, primary, lower secondary, upper secondary).
- 3.1.6.2 The proposed school's catchment area is within an area where the expected student population is growing by 2 per cent or more per year; or where the proposed school development provides a significant element of choice in a non-growth area for which there is an identifiable clientele.
- 3.1.6.3 There is a demonstrated support base for the proposed school development including expressions of interest in enrolment to indicate that the school will meet the required standard for the number of children to attend the school, and be financially viable.
- 3.1.6.4 Number of children:
- (Numbers refer to full time equivalent enrolments and exclude full fee paying overseas students).*
- The minimum number of children for schools proposing to offer pre-compulsory and compulsory education (Pre-primary – Year 7 in 2014 and Pre-primary – Year 6 2015 onwards) is 180 for urban areas and 90 for rural catchment areas with a population of less than 5,000.

- The minimum number of children for schools proposing to offer compulsory education (Years 8 – 12 in 2014 and Years 7 – 12 2015 onwards) is an average of 40 per year level in urban areas or an average of 25 per year level in rural catchment areas with a population of less than 5,000.
- Schools proposing to offer a combination of pre-compulsory and compulsory education are required to meet the respective minimum numbers specified above.
- Proponents of the proposed school development must provide evidence that the school is likely to meet the minimum number of children within five years of the year in which the school is approved to open. Should the minimum number of children not be reached within that period, the school may be required to show cause why the Minister should not impose a condition on the school's registration or give a direction about meeting the minimum number.
- The Minister may exempt a proposal from the minimum number of children if satisfied that the proposal will serve the educational needs of a small but clearly identified group in an area where an appropriate educational option is not available to members of that group.

3.1.7 Advance determination does not replace registration, nor does it necessarily mean that registration will be granted. It is valid until the Minister has made a determination on the registration of the proposed school and is granted in the expectation that a proposed school will meet all other requirements for registration. The primary reason for having advance determination is to provide the proponents of a new or significantly changing school with confidence to proceed with the more detailed planning and development that is required before the proposed school can seek registration. Having been granted advance determination, the proposed school can then proceed with the proposal in the knowledge that it will not be refused registration because it does not meet the criteria listed in the previous clause, provided that it meets the usual registration requirements.

3.1.8 Applicants are required to provide a range of information in support of their application for an advance determination, including:

- details of the body responsible for the governance of the proposed school;
- details of the proposed educational year levels for the proposed school and the future progression to new educational year levels, if applicable;
- details of the proposed catchment area, demand and projected student numbers for the proposed school (including the identification of the sources of information used as the basis for the market research) and evidence that other affected schools have been consulted regarding the proposal;
- details of the physical location and facilities for the proposed school, including full details of the proposed funding of the proposed school;
- a statement of how the proposed school will contribute to improved educational choice in the community; and
- a demonstration of how the school intends to implement teaching and learning programs and enriching experiences that meet the learning needs of all students; provide for the continuity and adherence of the curriculum across the years of schooling; and satisfies the curriculum requirements described by the School Curriculum and Standards Authority and approved for Western Australian schools and how the educational program will be delivered in terms of its human and educational resources, staffing and class structure.

- 3.1.9 As part of an application for advance determination, each proposed new school is required to provide a comprehensive Business Plan covering the first five years of its proposed operation. The Business Plan is checked to establish whether the proposed school is likely to become financially viable within a reasonable period after its establishment.
- 3.1.10 An application form for an advance determination is available from the Department (phone: 9441 1943) or from the Department's web site at www.des.wa.gov.au.
- 3.1.11 Once the Minister grants an advance determination, that approval will remain valid for a period of 2 years from the proposed commencement date of the school or until the formal registration of the proposed school is approved, whichever occurs first. If the proposed school is not established within this period, it will be necessary for a new application to be made to the Department.
- 3.1.12 Proposed schools should make contact with the Public Transport Authority (phone: 9326 2000) at an early stage of their planning to ensure that appropriate arrangements can be made for the planning of student transport.

3.2 Registration of non-government schools

- 3.2.1 An application for registration is required at least six months prior to the proposed commencement of the school or the proposed significant change coming into effect. **[s. 158(2)]**
- 3.2.2 An application form for registration is available from the Department (phone: 9441 1943) or from the Department's web site at www.des.wa.gov.au.
- 3.2.3 The Minister is to notify the proponents of a school of the outcome of their application within three months of an application for registration being received. **[s. 161]**
- 3.2.4 If all aspects of the proposal are found to be satisfactory at this stage, the Minister will issue a Certificate of Registration. **[s. 162]**
- 3.2.5 If a proposal is not considered to satisfy all relevant requirements, the Minister can register a school subject to specified conditions or refuse to register the school. **[s. 160(2)]**
- 3.2.6 In most instances, a further visit will be made to a school within six months after its commencement to see it in operation and to check on its compliance with any specified conditions included in its initial registration. If the school is found to be operating satisfactorily at this stage, its registration will be confirmed.
- 3.2.7 In a case of a school that has been registered subject to conditions, the Minister may, after consultation with the governing body of the school, impose any new condition or change or remove an existing condition. **[s. 165(1)]**
- 3.2.8 A copy of the registration report prepared at the time of inspecting a school will be made available to the governing body and Principal of the school.
- 3.2.9 The Minister can register non-system schools for periods of between one and seven years; however, in the current regulatory environment, and in order to maintain sound risk management practices, the maximum period of registration currently granted is five years. **[s. 163(1)]**

3.3 Renewal of registration

- 3.3.1 An application for the renewal of a school's registration should be made between twelve and six months before the current period of registration expires. **[s. 164(2)]**
- 3.3.2 An application form for renewal of registration is available from the Department (phone: 9441 1943) or from the Department's web site at www.des.wa.gov.au.
- 3.3.3 An application for renewal of registration will be determined in the same way as an application for initial registration. **[s. 164(3)]**

3.4 Notification of other changes

3.4.1 In addition to the types of significant changes to a school's registration referred to at clause 3.1.2 of these notes, the following types of changes also require an application for a change of registration but do not require an application for advance determination.

- change of school name;
- change of the governing body of the school;
- introduction of a Pre-Compulsory program at an existing non-government school;
or
- discontinuation of an educational level for which a school is registered.

3.4.2 The relevant application forms are available from the Department (phone: 9441 1943) or from the Department's web site at www.des.wa.gov.au.

4. Other relevant matters

4.1 Cancellation of registration

4.1.1 The Minister may cancel a school's registration if the Minister is satisfied that the school is not complying with the Act, any relevant requirement of the *School Curriculum and Standards Authority Act 1997*, any condition of a school's registration, a direction to comply with a standard or if it is considered to be in the best interests of the students at the school to do so.

[s. 167(1)]

4.1.2 The Minister will not cancel a school's registration without first notifying the governing body of the school of the proposed cancellation and the reasons for it. The governing body would be given a reasonable opportunity to show why the registration should not be cancelled.

4.2 Review of registration decisions

4.2.1 The governing body of a school may apply in writing for a review of a decision by the Minister to refuse to register or to renew the registration of a school, to cancel a school's registration or against a condition imposed on a school's registration.

[s. 168(1)]

4.2.2 The application for review is to be made within 28 days after the governing body received written notice of the Minister's decision.

4.2.3 The Minister is to refer the matter to a Non-Government School Registration Advisory Panel to examine the matter and report to the Minister with its recommendation.

4.2.4 The Panel must give the applicant the opportunity to be heard and the Minister is to give a copy of the Panel's report to the applicant.

4.2.5 The Minister, after considering the Panel's report, may confirm, vary or reverse the decision and is to give written notice to the applicant of the subsequent decision and written reasons for the decision.

4.3 Inspections and provision of information

4.3.1 The Minister may authorise an inspection of a registered school on seven days' notice or, where deemed necessary, without notice, for the purpose of ensuring that a school is complying with the *School Education Act 1999*, any relevant requirement of the *School Curriculum and Standards Authority Act 1997* or any condition of the school's registration.

[ss. 176-177]

4.3.2 The Minister may by notice in writing require the governing body of a registered school to provide –

- (a) statistical, educational and financial information about the school; and
- (b) any other information about the school relating to any matter referred to in section 159 of the Act. **[s. 181]**

4.3.3 The governing body is to provide the required information within the period specified in the notice, being a period of not less than 14 days from receipt of the notice.

5 Enquiries

Further enquiries regarding these notes and the procedures to be followed for registering non-government schools can be directed to:

Manager

(Non-Government School & International Education)

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