

## ***Education (General Provisions) Act 2006***

### **INFORMATION FOR STATE SCHOOLS**

Queensland now has a single, key piece of legislation for the schooling sector after Parliament passed the new *Education (General Provisions) Act 2006* on 8 August 2006. The Act retains many of the provisions of the previous *Education (General Provisions) Act 1989* and incorporates the *Youth Participation in Education and Training Act 2003* ("YPET").

#### **An overview of the new Act**

The new Act provides the legislative basis for a range of recent significant government reform initiatives, including the universal availability of the Preparatory Year from 2007, an increase in the compulsory school age in 2008, changes to schools reporting requirements and the exchange of consistent student information across all schools.

Many provisions of the previous Act have effectively remained unchanged. These include provisions relating to complaints management, School Councils, flexible arrangements in schools, directions about the conduct and movement of persons on school premises, religious instruction and reporting obligations around student protection.

#### **Schools' reporting process**

However the Act also provides a legislative basis for the new provisions for school reporting that were announced in 2005. It requires schools to provide at least two student report cards each year; to provide parents with the opportunity to meet with their child's teachers at least twice a year; and to publish an annual report in accordance with Ministerial policy.

#### **Allocation of semesters**

Principals' powers in relation to allocation of extra semesters have been revised. Principals will now only be able to grant students an extra two semesters, rather than the current four semesters. The Director-General (or delegate) will be able to grant up to four further semesters.

#### **Mature age students**

Minor changes made to the mature age students' provisions mean that from now on only student visa holders will be exempt from undergoing a criminal history check prior to enrolment.

#### **Transport assistance**

The Act also provides a new basis for assessing the transport assistance available to students with a disability, with eligibility for assistance being based on a student having a disability that necessitates transport to or from school by a means that takes account of their disability.

#### **P & C Associations**

Under the changes to the legislation relating to P&C Associations, the number of staff members who do not have children at a school who may be on the executive, will be restricted to less than one-third of the total number of the executive. The Director General (or delegate) may waive this limit in particular circumstances. The frequency for P&C meetings also has been reduced from monthly meetings to a minimum of three meetings a semester.

#### **Home education**

The Act also recognises home education as a legitimate alternative for the education of children. It introduces a new registration system that requires parents to provide details of their child's program and to demonstrate their child's educational progress by way of annual reports. The simultaneous enrolment of a home-educated

child in a State or non-State school is not permitted under the Act.

### Students living independently

The Act generally requires parents of students or adult students to be dealt with in relation to decisions, notices or required meetings.

However, the Act also recognises that a student may be dealt with directly where it is inappropriate to deal with the student's parents. The Act allows for case-by-case decisions in this regard. The Act uses the example of where it may be inappropriate to deal with a student's parents where the student is living independently of their parents.

**Some changes in the Act will have significant implications for State schools. These include enrolments in State schools, Transfer Notes, compulsory school attendance, student behaviour and charging for the provision of State education. These are outlined in some detail:**

### Enrolments in State schools

Until now the requirements for enrolments in State schools were not specified in legislation. However, the new Act makes specific provisions in this area.

Applications for enrolment must now be made using a standard form and must be accompanied by satisfactory evidence of eligibility. Applications may be made by a parent if the prospective student is a child, or by the students themselves if they are adults. Principals have the discretion to accept an application from a student who is not an adult if the principal is satisfied it is in the student's best interests to do so. The student must be enrolled if he or she is entitled to be enrolled under the Act.

The Act introduces the concept of an Enrolment Agreement. This is a document that states the respective rights and obligations of students, parents and staff of a school. A principal must

ensure an up-to-date enrolment agreement exists, and before enrolling a student must give a copy to the person making the application. The principal must also try to have the person receiving the agreement sign and return it, or else obtain a written acknowledgment that the person received a copy of the agreement.

Special schools must refer an application for enrolment to the Director-General or his delegate. For an enrolment to be approved the prospective student must be a person with a disability and the special school must be able to cater for their educational needs. If these requirements are satisfied the application will be referred back to the principal for the enrolment to be granted.

The Act also prescribes in legislation, previous departmental practice relating to enrolment management plans, and introduces the concept of enrolment eligibility plans, which will apply to the new Queensland Academies.

The minimum age for enrolment in the Preparatory Year will be included in the supporting *Education (General Provisions) Regulation 2006*. A child must be 5 years or older on or before 30 June in the year it is proposed they attend Prep. The Regulation will also specify the requirements for early entry into Prep, namely that the child in question had started an education equivalent to Prep in another State or country and the principal's supervisor is satisfied the child is developmentally ready to be enrolled.

### Transfer notes

The Act introduces the concept of Transfer Notes to facilitate a consistent student transfer system for movement between any school, State or non-State, within Queensland. A Transfer Note is a document containing specified information, including personal information, about a student, including the results of assessment and information about behavioural issues.

A Transfer Note can be requested by a parent or student when ceasing enrolment at a school, or

by the principal of a school when a student applies to enrol. A principal receiving a request for a Transfer Note from a school must respond to the request within 10 school days of receiving the notice. The Act ensures that principals cannot be held civilly liable for any act done, or omission made, honestly and without negligence, in issuing Transfer Notes.

### **Compulsory school attendance**

In conjunction with the implementation of Prep, the Act provides for the compulsory school age to increase in 2008 to 6 years and 6 months. The Act also confirms that, while enrolment in Prep will not satisfy the compulsory schooling obligations of parents in 2007, it will from 2008 onwards.

Previously, a parent did not have to comply with the compulsory schooling obligations if they had been granted a dispensation. Under the new Act, parents may be granted an exemption from those obligations where a child is unable to attend school, or where it would be unreasonable in all the circumstances to require the child to attend school.

The Act also lists a number of specific circumstances in which the compulsory schooling requirement does not apply and an exemption is therefore not required. These include home education; instances where a student is prevented from attending school because of an infectious or contagious disease or condition; periods of illness for up to 10 days where a child is unable to attend school; students who have an application for enrolment pending; and students who are recognised as apprentices or trainees under the *Vocational Education, Training and Employment Act 2000*.

### **Student behaviour**

The Act requires all schools to have an approved behaviour plan for the school that has been developed in consultation with parents, staff and

students. Plans are to be reviewed at least once every three years and copies of the plan are to be given to parents, students and applicants at enrolment.

For suspensions of 1-5 days duration, principals are required to take reasonable steps to ensure the student is given schoolwork to complete. Principals should also *contact* a parent to discuss the behaviour that led to the suspension. For suspensions of 6-20 days the principal must take reasonable steps to *meet* with a parent to discuss the behaviour that led to the suspension.

The Act now enables principals to impose a Behaviour Improvement Condition as an alternative option to exclusion. Behaviour Improvement Conditions can be imposed for a maximum of three months, during which time the student can continue to attend school, as long as they comply with the condition. Contravening a Behaviour Improvement Condition can be grounds for exclusion.

The new Act allows only one reason for cancelling the enrolment of a student who is more than compulsory school age. The enrolment can be cancelled if a student's behaviour amounts to a refusal to participate in the educational program provided at the school. The principal must now first give the student a 'show cause' notice and take reasonable steps to meet with a parent (or if this is inappropriate, the student) to discuss the student's behaviour. Whereas previously a principal could cancel enrolment for a fixed period or permanently, cancellation now can only be for a stated period up to a maximum of 12 months.

The previous provisions relating to the detention of students are retained, with the additional requirement for after-school detentions that a parent must be informed before the detention is imposed.

A definition of misconduct has been inserted in the Act to clarify that it includes misconduct happening while a student is attending or

representing the school, or travelling to or from the school.

The Act now enables a school to develop a dress code to apply when students are attending or representing the school. The dress code may stipulate standards of what is acceptable in relation to clothing, including headwear and footwear. It can also relate to other aspects of the personal presentation of the students.

Schools must consult with parents, staff and students in developing the dress code and must ensure the dress code is consistent with Departmental guidelines. Permitted sanctions for non-compliance with the dress code include detention; preventing the student from attending or participating in any activity for which the student would have been representing the school; or any school activity that is not part of the essential educational program of the school.

### **Charging for the provision of State education**

The Act confirms that the cost of providing instruction, administration and facilities for the education of students at State schools will be met by the State. This applies to all students enrolled at State schools who are Australian citizens or permanent residents, or children of Australian citizens or permanent residents.

However the Act also identifies that there are others who can be charged a fee for their education. These include persons who are not Australian citizens or permanent residents, students enrolled at a non-State school who also subsequently enrol at a State school to undertake some course, and persons not formally enrolled at a school who wish to undertake a particular course.

In addition, the Act confirms that State school students can be charged a fee for specialised educational programs, educational services purchased from an external provider, and services, materials and consumables that are not

defined as instruction, administration and facilities. Schools can also ask parents to make a voluntary contribution towards the cost of providing instruction, administration and facilities for the education of their students.

Changes made to distance education will allow a person not enrolled in a school who is undertaking a component (for example, a subject) of a distance education program to be charged and will also allow a fee to be charged for providing distance education to a student enrolled at a non-State school.

### **Implementation issues**

The new Act has a number of implications for a range of Departmental policies, with more than 30 previous Department of Education Manual (DOEM) policies requiring revision or replacement and a number of new policies having to be developed. This policy work has been undertaken in the context of establishing the new Education Policies and Procedures Register (EPPR).

Further information relating to the new legislation is available on a dedicated web site available at: [www.education.qld.gov.au/review](http://www.education.qld.gov.au/review).

In addition to links to the Act and Regulation, this site also includes links to relevant EPPR references, other relevant documents, answers to frequently asked questions and contact information.