

## Education and Children's Services Regulations information sheet

### General information

The *Education and Children's Services Act 2019* (the Act) passed Parliament in August of last year. To support the implementation of the Act draft regulations have been developed and released for public consultation.

Regulations support the implementation of the Act by providing guidance on how certain parts are interpreted and will establish further requirements, functions and powers related to the Act.

The regulations will come into operation on the same day the Act comes into operation. The Act and regulations are intended to commence later this year.

We have highlighted a number of regulations below that we think may be of interest. However, this is not an exhaustive list. There may be other areas that are of particular importance to you and we recommend reviewing the draft regulations in full prior to providing any feedback.

### Enrolment in government schools

**Regulation 10** allows the Minister to publish criteria, requirements or policies for enrolment. These may include:

- maximum enrolment capacity
- limits for special interest programs
- school zones
- any other relevant matters.

### Enrolment in approved learning programs

A young person who is 16 years of age must be enrolled in an approved learning program or a combination of approved learning programs. These may include:

- secondary education
- university
- an apprenticeship or traineeship
- VET, TAFE or training provided by a registered training organisation.

**Regulation 11** says that an approved learning program or a combination of approved learning programs must equal full time participation, and that the Minister will publish guidelines which set out the minimum standard for full time participation.

### Attendance and participation

The Chief Executive can direct that a child be enrolled in a particular government school in specified circumstances including to:

- support a child with disabilities or learning difficulties
- ensure the health, safety and welfare of the child or that of the staff and students of the school the child attends.

**Regulation 12** says the Chief Executive can only make this direction when they are satisfied that the school to which the child is directed can appropriately manage the circumstances which caused the need for the direction.

A parent or caregiver commits an offence if their child fails to attend school or participate in an approved learning program, unless:

- the child was sick
- the child was at risk of catching a contagious or infectious disease
- any other reason outlined in the regulations

It is a defence against the offence if a parent or caregiver takes reasonable steps to ensure their child attends school or participates in their approved learning program.

**Regulations 20 and 21** say other reasons include unavoidable circumstances where there is sufficient cause.

## Enrolment of adult students

An adult must not be enrolled in a school:

- if they are a prohibited person
- unless they hold a current working with children check.

**Regulation 13** says adults re-enrolling within 6 months of last being a student at a school do not require a working with children check.

It allows the Chief Executive to direct an adult student in government schooling be enrolled in a specific school or class of schools.

It also allows the Chief Executive to cancel the enrolment of an adult student.

## School terms, school days and special days

**Regulation 15** says the school year is to be divided into periods determined by the Minister.

**Regulation 16** says a government school is to be open from Monday to Friday each week, with the exception of:

- public holidays
- school holidays
- other times as approved by the Chief Executive.

**Regulation 17** sets out:

- the amount of time that must be set aside for instruction at government schools
- that time is to be set aside for recess and lunch

It permits the early dismissal of children under 6 years of age.

It allows the Chief Executive to authorise alternative arrangements at a specified school or class of schools.

## Homework

**Regulation 18** says teachers at government schools are permitted to require that students complete homework appropriate to their age and ability.

It also says teachers must consider any objections parents and caregivers have regarding the volume of homework expected.

## Suspension, exclusion and expulsion

The Act allows a principal to suspend or exclude a student and expel a child above compulsory school age from a government school. It also allows the Chief Executive to expel a student above compulsory school age from *all* government schools. It also allows for rights of appeal against a decision to exclude or expel a student.

**Regulation 23** sets out what the school principal or the Chief Executive must regard in determining whether to suspend, exclude or expel a student, including:

- the severity and frequency of the misbehaviour of the student
- the student's prior record of behaviour and response to previous sanctions (if any)
- the extent to which adjustments have been made at the school to support the participation of that student, or students with a disability generally
- any other relevant matter.

## Student behaviour and consequences for misbehaviour

**Regulation 25** allows school principals to impose moderate and reasonable rules for student behaviour and consequences for breaking school rules.

It says consequences can include detaining a student during the lunch break or after school hours.

It also allows principals to delegate disciplinary authority to other staff.

**Regulation 26** says a principal of a government school, or person authorised by the principal, is permitted to search student bags, lockers or other belongings on school premises to safeguard schools from loss of books, tools, materials or equipment.

## Religious or cultural activities

A government school principal may set aside time for non-curricular religious and cultural activities conducted by a prescribed person.

**Regulation 28** says a person prescribed to conduct religious activities must be recognised (whether by formal ordination, commissioning, endorsement or otherwise) by a generally recognised or accepted religious organisation.

**Regulation 28** says a person prescribed to conduct cultural activities represents and is acting with the approval of a generally recognised or accepted cultural organisation.

**Regulation 29** says that if a parent or caregiver gives written notice to the school principal that their child be exempt from a specified religious or cultural activity, or from all such activities, the student is considered exempt.

## Exemption from sex education

**Regulation 30** says parents and caregivers can request that their child be exempt from sex education. However, that exemption does not apply to the *Keeping Safe: Child Protection Curriculum*.

## Student allowances and scholarships

### Regulations 32 and 33

Provide allowances to be paid to parents and caregivers to support their child's transport to school, where the child is living:

- 5km or more from their nearest government school or from a transport route to the nearest government school
- with a disability and attends a special school, disability unit or class of a kind approved by the Chief Executive.

**Regulation 34** provides for allowances to be paid to support students who are living away from home in order to undertake an approved secondary education course.

## Dress codes

**Regulation 36** allows the Chief Executive to issue instructions in relation to dress codes for government schools.

It allows governing councils to determine a dress code for their school following consultation with students, parents and caregivers and describes how the consultation will take place.

It says that a dress code should be flexible and allow the right of choice and gender expression taking into account various factors.

The principal of a school is required to inform students, parents and caregivers of the dress code and of their right to request an exemption from that dress code.

The principal is responsible for enforcing the dress code.

## The teaching service

The Chief Executive can appoint teachers to the teaching service (in government schools and preschools) on an ongoing, term or casual basis.

The regulations in Part 6 and Part 8 set out further detail relating to the terms and conditions of employment for officers of the teaching service, including:

- selection and appointment processes, including merit-based selection processes, probation for term employees and determination of duties
- conditions and remuneration on transfer, reclassification, and application and appointment to promotional level positions
- entitlement to and calculation of leave including:
  - o sick leave
  - o long service leave on half pay
  - o special leave
  - o extension of maternity leave
  - o leave due to infectious diseases
  - o war service leave
- payment or determination of salaries and allowances for particular circumstances, such as for approved travel, and deduction of rent for government housing
- payment of the cost of such medical examinations as required by the Chief Executive
- limitations on an employee's right to appeal employment decisions to the South Australian Employment Tribunal.

## Financial provisions

**Regulation 79** sets out the amount a school can charge for materials and services. A school can only recover an amount above the prescribed amount if a poll of parents and caregivers at the school support the higher charge.

**Regulation 80** sets out the requirements for written notice of materials and services charges.

**Regulation 81** provides for the Chief Executive to determine the conditions under which a material and services charge is a debt due to the governing council of the school.

**Regulation 83** allows the Chief Executive to provide a child with the use of books, materials and equipment where the parent or caregiver has satisfied the Chief Executive that payment for those items would inflict hardship.

## Traffic regulation on school, preschool and children's services centre grounds

**Regulation 87** says the principal of a government school, or a director of a stand-alone preschool or children's services centre may set aside a portion of the premises for parking of vehicles, subject to the approval of the Chief Executive.

The regulations provide guidance on the management of traffic on school, preschool and children's services centre premises, for example, setting a speed limit and penalties for non-compliance.

## School records and documents

**Regulation 88** says that government school records and documents will be property of the Minister and provides guidance on how they should be managed.