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Education and Training Reform Act 2006

NOTICE OF REVISED GUIDELINES FOR APPLICANTS SEEKING TO REGISTER A SCHOOL AND FOR REGISTERED SCHOOLS

Section 4.3.8A of the **Education and Training Reform Act 2006** (the Act) authorises the Victorian Registration and Qualifications Authority (the Authority) to issue guidelines.

Section 4.3.8A(4) of the Act requires that any guidelines issued under subsection 4.3.8A be published as soon as practicable in the Government Gazette.

The revised guidelines will apply to all applicants seeking registration from the Authority to operate a school from 1 January 2021, and to all VRQA registered schools from 1 July 2021.

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Victorian Registration and Qualifications Authority

SPECIAL

GUIDELINES TO THE MINIMUM STANDARDS AND REQUIREMENTS FOR SCHOOL REGISTRATION

In Victoria, all schools must meet the minimum standards for school registration.

The minimum standards provide a foundation for quality schools through:

- good governance
- strong financial management
- effective curriculum
- sound teaching practices, and
- safe environments for children.

Introduction

About the Guidelines

The **Education and Training Reform Act 2006** (Act) and the Education and Training Reform Regulations 2017 (ETR Regulations) prescribe the minimum standards and other requirements that schools must comply with to be registered and maintain registration.

The Guidelines to the Minimum Standards and Requirements for School Registration (Guidelines) form part of the legal framework for the registration and regulation of schools. The Guidelines detail the requirements of the minimum standards for registration of schools (minimum standards) and other requirements under the Act.

Who uses the Guidelines?

The Guidelines apply to schools offering:

- a. Foundation–Year 10
- b. a senior secondary course such as the Victorian Certificate of Education (VCE), Victorian Certificate of Applied Learning (VCAL) or International Baccalaureate (IB) Diploma Programme, which are normally provided in Years 11–12.

The Guidelines describe the information, documentation and other evidence the VRQA requires for it to be satisfied that a school meets the minimum standards. The Guidelines should be used by:

- an individual or organisation applying for registration as a school or a review body applying to register a school
- two or more registered schools that intend to amalgamate (the proposed amalgamated school must apply to the VRQA as if it were a new school)
- a registered school seeking to amend its registration. Catholic and government schools should contact the Catholic Education Commission of Victoria Ltd (CECV) or the Schools and Regional Services group, Department of Education and Training (DET), for advice, application forms and procedures. The VRQA does not accept direct applications from Catholic or government schools
- a registered school changing its legal entity, for example moving from an incorporated association to a company limited by guarantee
- a registered school delivering or applying to deliver a senior secondary qualification
- a registered school undergoing review.

The VRQA uses the Guidelines when conducting reviews to determine whether a school continues to satisfy the minimum standards.

The Guidelines do not detail all the evidence a school may need to provide to demonstrate compliance with the minimum standards. The VRQA may request evidence of compliance from individuals, organisations and review bodies applying for registration or from registered schools, that is in addition or different to, that set out in the Guidelines (section 4.3.1(5) of the Act).

References to regulations, Ministerial Orders or provisions of an act are as at the date of the Guidelines. From time to time there may be amendments to the Act, ETR Regulations or the issuing of new Ministerial Orders. It is the responsibility of registered schools and those applying for school registration to ensure they are across any of these changes.

School registration

A school must be registered as one or more of the following types:

- a primary school
- a secondary school
- a co-educational school
- a single sex school
- a specific purpose school, such as a school that provides an alternative educational program
- a specialist school, such as a school that caters mainly for students with disabilities or with social, emotional or behavioural difficulties (Schedule 5, clause 10, ETR Regulations).

Registering a new school

An individual or organisation seeking to register a new school applies to the VRQA using the *Application to Register an Independent School* form available at:

- www.vrqa.vic.gov.au/schools

DET's Schools and Regional Services group manages government school applications and the CECV manages Catholic school applications.

The Guidelines detail the evidence required and should be referred to when completing the application form. Schedule 5 of the ETR Regulations also details the information that is required to be provided to the VRQA in an application for school registration.

Registration requirements: Foundation–Year 10

Schools offering or applying to offer Foundation–Year 10 are required to meet the minimum standards set out in Schedule 4 of the Regulations.

Section 4.3.1(6) of the Act provides that the VRQA must not register a school unless the VRQA **is satisfied that** the school meets the minimum standards and other requirements contained in that section.

Registration requirements: schools offering accredited senior secondary courses

Schools offering or applying to offer the VCE, VCAL or the IB Diploma Programme or any part of such a course are required to meet the minimum standards for registration to provide an accredited senior secondary course set out in Schedule 8 of the ETR Regulations and the other requirements contained in section 4.3.11 of the Act.

These are standards that schools must satisfy to offer a senior secondary course and are in addition to the requirements for school registration.

The VRQA will not register a person, body or school as a senior secondary provider unless it **is satisfied that** the person, body or school meets the minimum standards for registration to provide an accredited senior secondary course.

Additionally, schools must obtain the awarding body's authorisation to deliver their courses. The Victorian Curriculum and Assessment Authority (VCAA) authorises schools to deliver the VCE and VCAL, and the International Baccalaureate (IB) authorises delivery of the IB Diploma Programme.

Registration requirements: schools offering courses to overseas students

Schools offering or applying to offer courses to overseas students are regulated by Part 4.5 of the Act and the **Education Services for Overseas Students Act 2000** (Cwth) (ESOS Act). Part 4.5 and the ESOS Act impose additional requirements that schools must satisfy to offer courses to overseas students.

Schools are required to first seek the VRQA's approval. If approved, the VRQA will then recommend to the Commonwealth that the provider be registered under the ESOS Act.

Schools offering courses to overseas students are required to meet the VRQA's:

- Guidelines for the Enrolment of Overseas Students Aged Under 18
- Guidelines on the Provision of VCAL Courses to Overseas Students.

More information and the guidelines for schools seeking to offer courses to overseas students is available at:

- www.vrqa.vic.gov.au/schools

Review bodies

One of the ways the VRQA may satisfy itself that a school continues to comply with the minimum standards is through a review conducted by a VRQA approved review body.

The VRQA has approved CECV and DET's Schools and Regional Services group as review bodies responsible for ensuring the ongoing quality assurance of their respective schools with the minimum standards and other requirements for registration.

School reviews

A school is reviewed every four to five years by the VRQA or the school's review body. The Act requires a school to participate in the review and evaluation process, and to provide the VRQA with the necessary evidence required to demonstrate that it is complying with the minimum standards.

The VRQA may also open a review at any time if it considers it appropriate to do so.

Outcomes of applications and reviews

The VRQA will advise all applicants and schools of the outcome of their application for registration or review.

Certain decisions made by the VRQA about a school's registration may be reviewed by the Victorian Civil and Administrative Tribunal.

For more information, see:

- www.vrqa.vic.gov.au/schools

Complaints about compliance

The VRQA is required to investigate a complaint alleging a breach of obligations by a school in relation to the democratic principles in section 1.2.1(a), (c), (e) and (f) of the Act, the availability of information about the school's performance or the right of a parent or student to access information about the student's achievement (regulations 97–99, ETR Regulations).

Details of the relevant obligations are that:

- all providers of school education, both government and non-government, must ensure that their programs and teaching are delivered in a manner that supports and promotes the principles and practice of Australian democracy. These principles include a commitment to elected government, the rule of law, equal rights for all before the law, freedom of religion, freedom of speech and association, and the values of openness and tolerance
- information about the performance of education and training providers should be publicly available
- a school community has the right to information about the performance of its school
- a parent or guardian of a student and the student have the right to access information about the student's achievement.

The VRQA's general powers also allow it to investigate complaints alleging a breach of the minimum standards (section 4.2.3).

A complaint must first be raised with the school. If unresolved, complaints about:

- government schools will be referred to the Schools and Regional Services group, DET

- Catholic schools will be referred to CECV
- Independent schools will be investigated by the VRQA.

Some complaints may result in the VRQA undertaking a general or specific review of the school's compliance with the minimum standards.

For more information on the VRQA's policy and procedures on complaints, see:

- www.vrqa.vic.gov.au

The minimum standards

School governance

Democratic principles

A registered school's programs and teaching must be consistent with the principles of Australian democracy.

Evidence requirements

There must be evidence of a statement affirming that the school adheres to the principles. This might be included in the school's constitution, prospectus, handbook or statement of values or philosophy.

Explanatory notes

The ETR Regulations state that this standard is not intended to affect the rights accorded to, or the compliance with any obligation imposed on a school under a State or Commonwealth law.

For example, the **Equal Opportunity Act 2010** allows a school to operate wholly or mainly for students of a particular sex, race, religious belief, age or age group. This means a school established by a particular religious denomination or group of religious denominations can give preference in its enrolment policy to adherents of that denomination(s) or their children.

Regulatory context

The programs of, and teaching in, a registered school must support and promote the principles and practice of Australian democracy, including a commitment to –

- (a) elected government; and
- (b) the rule of law; and
- (c) equal rights for all before the law; and
- (d) freedom of religion; and
- (e) freedom of speech and association; and
- (f) the values of openness and tolerance.

Nothing in this clause is intended to affect the rights accorded to, or the compliance with any obligation imposed on, a registered school under a law of the State or of the Commonwealth.

Schedule 4 clause 1 of the Education and Training Reform Regulations 2017

Governance

The proprietor must structure the governance of a school to allow it to effectively manage the school's finances and development of strategic direction and fulfil its legal obligations.

Evidence requirements

For a non-government school, there must be evidence of:

- an outline of the governing body's structure and membership including details of the experience and expertise of the members of the board or governing body, the name of the school's proprietor and the legal entity type
- details of the member(s) of the company, if the school is a company limited by guarantee or incorporated association (for example, the register of members)

- copies of all delegations from the governing body. For example, financial or non-financial delegations made from the school governing body to the school principal
- the company or association's constitution or rules of association. For non-government schools operating or intending to operate an early learning centre (ELC) that is a feeder for enrolments to the school, there must be provision in the constitution or rules of association for the delivery of ELC services
- a conflict of interest register for all responsible persons as defined in the ETR Regulations and a plan detailing how any conflict of interest or duty will be managed
- the most recent financial statement for the company or association which must be audited by a registered auditor
- the school's governance charter, outlining the key functions and responsibilities of the school board and any subcommittees
- the school's strategic plan
- the school's business plan which is validated by an independent qualified accountant*, and which must include:
 - enrolment estimates and assumptions
 - the estimated socioeconomic status of students and assumptions underpinning this status
 - estimated State and Commonwealth grant funding
 - five-year financial forecasts.

* The business plan must be validated by an independent qualified accountant who is not employed by or associated with the school or a related entity. The accountant should provide a signed statement that confirms the reasonableness of the business plan and validates any underlying assumptions.

For a government school, the Act defines the role and responsibilities of a government school including the role of the school council. DET's Schools and Regional Services group monitors adherence to this standard by government schools.

Regulatory context

- (1) The proprietor must structure the governance of a registered school to enable:
 - (a) the effective development of the strategic direction of the school; and
 - (b) the effective management of the finances of the school; and
 - (c) the school to fulfil its legal obligations.

Schedule 4 clause 15(1) of the Education and Training Reform Regulations 2017

Not-for-profit status

A registered school must be not-for-profit as defined in regulation 7. The proprietor must have sufficient controls in place to prevent breaches of the not-for-profit requirements in regulation 7.

Evidence requirements

For a non-government school there must be evidence¹ of:

- a statutory declaration of the school's not-for-profit status executed by the chair of the school governing body
- copies of agreements, contracts or arrangements with third parties that are related entities (within the meaning of section 9 of the **Corporations Act 2001**) or any person or for-profit or not-for-profit organisation affiliated with the school (for example, affiliated religious groups)
- copies of any loan agreements, guarantees and the like to or from third parties that are related entities and/or affiliated organisations or persons
- details of the related entity and/or affiliated organisation or person and the relationship between the school and that entity or person.

¹ Also refer to the following Explanatory notes.

Schools must have a legally binding written agreement for any loans or arrangements for the delivery of services to the school or to its students. Such agreements may include but are not limited to arrangements for the provision of:

- administrative, management and financial services
- education services including where the school contracts with another school, a registered training organisation or an organisation not registered as an education and training provider
- leases or licences for premises occupied or used by the school
- loans or security.

For a non-government school operating or intending to operate an ELC, there must be evidence of:

- a published statement to the effect that a proportion of funds raised or fees collected by the school may be used to support the operation of the ELC. The statement must be published in general policies, such as the enrolment policy, enrolment agreement, fee schedule or policy, and promotional materials
- separate financial records for the school and ELC, with cross-subsidisation clearly identifiable
- copies of any loan or security arrangements entered into by the school for the purpose of constructing or maintaining ELC infrastructure or funding the ELC.

Explanatory notes

Schools must ensure that any loan agreement and/or arrangement for the delivery of services to the school and its students:

- are on commercial terms
- do not constitute a prohibited agreement or arrangement within the meaning of regulation 5
- do not otherwise breach the not-for-profit requirements in regulation 7.

A school must identify if any agreement is with a related or affiliated entity or person of the school, its proprietor or any responsible person and provide information about the school's relationship with that related or affiliated entity or person to the VRQA.

Not-for-profit has a particular meaning under the ETR Regulations. The key elements which make a school 'not-for-profit' are that:

- the school is not established for the purpose of generating profit or gain
- the money and property received by the school or the proprietor of the school is only applied toward the conduct of the school and is not used for any other purpose
- the school and its proprietor are not a party to a prohibited agreement or arrangement.

Generating a profit or gain will not, of itself, mean that a school is 'for-profit'. If the school applies those profits or gains toward the conduct of the school or an ELC (that meets the relevant requirements in the regulations) and does not distribute them to any other person or entity, then it is still satisfying the 'not-for-profit' requirement. On this basis, the ETR Regulations provide that a proprietor is not to be taken to conduct the school for the purpose of profit or gain if the proprietor makes a financial surplus in the course of the proper administration of the school.

For a full explanation of not-for-profit and prohibited agreement arrangements, see:

- **not-for-profit** as per regulation 7 of the ETR Regulations
- **prohibited agreement or arrangement** as per regulation 5 of the ETR Regulations (a definition is contained in Appendix 1 of the Guidelines).

What are the requirements of a not-for-profit school under the ETR Regulations?

Regulation 7(1) provides that for the purposes of the ETR Regulations, a not-for-profit school is a school that satisfies **all** the following criteria:

- a. the school is not established for the purpose of profit or gain;
- b. the proprietor of the school does not conduct the school for the purposes of the proprietor's or any other person's profit or gain;

- c. no part of the profit or gain made in the conduct of the school is or may be distributed to any person or entity;
- d. all money and property received by the school or the proprietor of the school for the conduct of the school are applied solely towards the conduct of the school in accordance with the school's 'not-for-profit' purpose;
- e. the school is not a party to a prohibited agreement or arrangement;
- f. the proprietor of the school is not a party to a prohibited agreement or arrangement;
- g. in the case of a non-government school, on the closure of the school, any surplus assets of the school remaining after payment of the school's liabilities are required by the constitution or rules governing the school to be –
 - i. used by the proprietor of the school for providing education services to school-age children or for other not-for-profit purposes; or
 - ii. given to a not-for-profit entity operating within Australia that provides education services to school children or that has similar purposes to the proprietor.

Not-for-profit and early learning centres

For the purposes of Regulation 7(1), a school is not conducted for the purposes of profit or gain only because the proprietor of the school:

- a. uses money (other than government funding) or property of the school to conduct an ELC that is a feeder for enrolments to the school; or
- b. provides money (other than government funding) or property to a person or entity to conduct an ELC that is a feeder for enrolments to the school.

Schools that operate or intend to operate an ELC may use school money or property, other than State or Commonwealth government funding, to conduct their ELC. An ELC must meet certain requirements to be eligible to receive school money.

A school may only use money (other than government funding) to conduct or support an ELC if the ELC meets **all** the following requirements:

- it is an approved education and care service (within the meaning of the Education and Care Services National Law (Victoria))
- it provides education and care to children, which must include a 3 or 4-year-old kindergarten program
- the service is not-for-profit
- the ELC is a feeder for enrolments to the school.

A co-educational ELC will be considered to be a feeder for enrolments for a single-sex school, provided children at the ELC enrol at the school.

For a non-government school operating or intending to operate an ELC, there must be evidence of:

- a published statement to the effect that a proportion of funds raised or fees collected by the school may be used to support the operation of the ELC. The statement must be published in general policies, such as the enrolment policy, enrolment agreement, fee schedule or policy, and promotional materials
- separate financial records for the school and ELC, with cross-subsidisation clearly identifiable
- copies of any loan or security arrangements for the purpose of constructing or maintaining ELC infrastructure or supporting the ELC.

Schools must keep separate financial records for the ELC and the school that clearly identify any cross-subsidisation, however, there is no requirement for separate bank accounts.

Schools may enter into a loan arrangement for the purpose of constructing or maintaining ELC infrastructure, providing there is no risk to the financial viability of the school either in providing security for the loan or in servicing the loan. Schools do not have to provide a specific proportion or dollar amount in their published statements. However schools have separate disclosure requirements under Commonwealth and Victorian consumer and not-for-profit laws (such as the Australian Charities and Not-for-profit Commission Governance Standards, the Australian Education Regulations 2013 (Cwth), the **Australian Consumer Law and the Fundraising Act 1988** (Vic.)), which may require them to disclose a dollar amount or percentage of privately generated funds that are directed to the ELC.

Regulatory context

- (1) A registered school must be a not-for-profit school.
- (2) The proprietor of a registered school must have sufficient controls in place to ensure that school property and assets are not distributed or used for the profit or gain of another person or entity.
- (3) Subclause (2) does not apply in relation to any money (other than government funding) or property of a registered school, which the proprietor of the school—
 - (a) uses to conduct an early learning centre that is a feeder for enrolments to the school; or
 - (b) provides to a person or entity to conduct an early learning centre that is a feeder for enrolments to the school.

Schedule 4 clause 17 of the Education and Training Reform Regulations 2017

Probity

All responsible persons in a school must be fit and proper and able to carry out their legal responsibilities in relation to the operation of the school.

Evidence requirements

There must be evidence of a:

- completed Fit and Proper Statutory Declaration from each responsible person
- list of each responsible person, their role and a summary of the qualifications and experience of each person.

Explanatory notes

In a non-government school, a responsible person must be a fit and proper person who:

- is able to carry out their responsibilities in relation to the operation of the school in compliance with the laws of Victoria, the Commonwealth, another state or a territory relating to the provision of school education
- has not been found guilty of an offence which is (or which would if committed in Victoria) be an indictable offence
- has not been:
 - in the case of an individual, insolvent under administration (for example, declared bankrupt)
 - in the case of a body corporate, is not or has not been an externally administered body corporate
- is not a represented person under the **Guardianship and Administration Act 1986**
- is not in breach of any requirements of the **Working with Children Act 2005** or has not had their approval revoked or suspended

- has not been the subject of, or associated with an adverse finding or other action taken by a court, tribunal, commission of inquiry, professional discipline body or regulatory authority (in Victoria or elsewhere) where the adverse finding relates to:
 - dishonest, misleading or deceptive conduct, or
 - non-compliance with a legal obligation relating to the provision of education, or
 - a breach of duty (including a duty of disclosure).

The VRQA may exempt a person from the requirement to comply with Schedule 4 clause 15(5) (b) or (5)(f) if in its opinion it would not be appropriate to exclude that person from being involved in the conduct of the school.

When considering whether to grant an exemption the VRQA must have regard to:

- the nature and gravity of the offence or misconduct and its relevance to conducting a school
- the period of time since the person committed the offence or engaged in the misconduct
- the punishment imposed for the offence or misconduct
- whether or not the conduct that constituted the offence has been decriminalised or the standards of conduct materially changed since the person engaged in the conduct that constituted the offence or misconduct
- the person's behaviour since committing the offence or engaging in the misconduct
- any information given by the person concerning the person's conduct in relation to the registration of the school
- any other matter the VRQA considers relevant.

Regulatory context

- (2) In a non-government school, every responsible person must be a fit and proper person.

Schedule 4 clause 15 of the Education and Training Reform Regulations 2017

- (5) *A fit and proper person* means a responsible person who –
- (a) is able to carry out the person's responsibilities in relation to the operation of the school in compliance with the laws of Victoria, the Commonwealth, another State or a Territory relating to the provision of school education; and
 - (b) has not been found guilty of an offence which is, or which would if committed in Victoria be, an indictable offence; and
 - (c) has not been –
 - (i) in the case of an individual, insolvent under administration; or
 - (ii) in the case of a body corporate, an externally-administered body corporate; and
 - (d) is not a represented person; and
 - (e) if the person is given an assessment notice under the **Working with Children Act 2005** in relation to the school, complies with –
 - (i) all requirements under the Act on the person as a holder of an assessment notice; and
 - (ii) all requirements under the Act where the assessment notice is revoked or suspended; and
 - (f) has not been the subject of or associated with an adverse finding or the subject of action taken by a court, tribunal, commission of inquiry, professional discipline body or regulatory authority (in Victoria or elsewhere) where the adverse finding or the action relates to –
 - (i) dishonest, misleading or deceptive conduct; or
 - (ii) non-compliance with a legal obligation relating to the provision of education; or
 - (iii) a breach of duty (including a duty of disclosure).

Notes

For the purposes of clause 15(5)(f) an adverse finding or action may include a decision by a registering body to limit, suspend or cancel a registration or permit granted to a responsible person individually, or to a body or entity that the responsible person has been associated with governing.

In the case of government schools, the Minister may make provision for the membership of school councils in an Order made under section 2.3.2 of the Act and the eligibility of principals is dealt with under Part 2.4 of the Act (including applicable Ministerial Orders).

Schedule 4 clause 15 of the Education and Training Reform Regulations 2017

Responsible person means –

- (a) if the proprietor is an individual, that person; or
 - (b) if the proprietor is a body, that body and any person who is concerned in, or takes part in, the management of the body; or
 - (c) each person with responsibility in the school governance structure for managing the school or its finances, including each member of the governing body of the school; or
 - (d) the principal of the school; or
 - (e) any other person who by the person's conduct assumes a position of authority over the governance or management of the school.
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Part 1 of the Education and Training Reform Regulations 2017**Philosophy**

A school must have a clear philosophy and be able to demonstrate how it is enacted.

Evidence requirements

There must be evidence of:

- a statement of the school's philosophy which includes the vision, mission, values and objectives of the school
- a description of how the school enacts its philosophy
- an outline of where the school has published a statement of its philosophy.

Explanatory notes

The school's philosophy statement communicates the nature of the school to current and prospective staff, students, parents and guardians. It provides a foundation for the school's strategic planning decisions and performance reviews. The philosophy statement could be contained in the school's constitution, prospectus, handbook, strategic plan or business plan, or on the school website.

Regulatory context

A registered school must publish a clear statement of its philosophy and be able to demonstrate how the school's philosophy is enacted.

Schedule 4 clause 16 of the Education and Training Reform Regulations 2017**Enrolment****Student enrolment numbers**

A school must have sufficient students to be able to provide a range of curriculum programs and learning experiences to support students' academic and social development.

Evidence requirements

For a school applying to register

There must be evidence in the form of the forecast number of enrolments, as declared in the application to register a school form. The actual numbers must be provided to the VRQA as soon as they become known or available.

For a registered school

There must be evidence in the form of the enrolment register that records that the school has as many or more students than the minimum number required by the standard, or than the minimum number as otherwise approved by the VRQA.

Explanatory notes

The minimum enrolment number is 20 students.

The minimum enrolment number is 11 for:

- a specialist school
- a primary school located outside:
 - the Melbourne Statistical Area, or
 - an Urban Centre with 20,000 people or more.

A secondary school must have an average enrolment of 10 or more students for each year level for which the school is registered.

A school may seek an exemption from the minimum enrolment number if it can satisfy the VRQA that the school meets the requirements of regulation 62 (detailed in the Regulatory context).

Regulatory context

- (1) A registered school must have a minimum of 20 students enrolled in the school.
- (2) A secondary school must have an average enrolment of 10 or more students for each year level for which the school is registered.
- (3) Subclause (1) does not apply to a school with an enrolment of 11 or more students if the school is –
 - (a) a primary school that is not located within –
 - (i) the Melbourne Statistical Area; or
 - (ii) an Urban Centre in Victoria with a population of 20 000 or more; or
 - (b) a specialist school.

Schedule 4 clause 7 of the Education and Training Reform Regulations 2017

62 Exemption from student enrolment numbers standard

The Authority may approve an enrolment number for a school that is lower than the enrolment number specified under clause 7(1), (2) or (3) of Schedule 4 for that school if the Authority is satisfied –

- (a) that sufficient students are enrolled at the school to enable the school to provide opportunities for students to receive instruction commensurate with the year level of education in which students are enrolled –
 - (i) that taken as a whole, substantially addresses the learning areas set out in Schedule 1 to the Act unless the school is exempt under regulation 61; or
 - (ii) in the case of a school registered or to be registered for a specific purpose, that reflects the type of educational program relating to that registration; or
- (b) that special circumstances apply, in which case the Authority must publish the reason for approving the lower enrolment number on the Authority's website.

Regulation 62 of the Education and Training Reform Regulations 2017

Enrolment policy

A school must have a clear enrolment policy that complies with all applicable State and Commonwealth laws including those relating to discrimination and the duty to make reasonable adjustments, equal opportunity, privacy, immunisation and the Australian Consumer Law.

Evidence requirements

There must be evidence of the school's:

- enrolment policy and procedures which make clear who is eligible for enrolment as a domestic student. For a non-government school operating or intending to operate an ELC, the policy must state that a proportion of funds raised or fees collected may be applied to the conduct of the school's ELC.
- enrolment agreement with parents or guardians which complies with all State and Commonwealth laws, including the Australian Consumer Law. The agreement must be publicly available and cover, at a minimum:
 - codes of conduct for students, and parents and guardians
 - fees
 - educational services provided
 - the grounds on which the agreement may be terminated
- for government schools, parents and guardians must be able to access enrolment forms, the parent payment policy and a schedule of charges for the school.

Regulatory context

- (1) A registered school must have a clearly defined enrolment policy that complies with all applicable State and Commonwealth laws.
- (2) Despite clause 1 (1), a registered school established by a particular religious denomination or by a group of religious denominations may have an enrolment policy that gives preference to adherents of that religious denomination or denominations or their children.

Schedule 4 clause 8 of the Education and Training Reform Regulations 2017

Register of enrolments

A school must maintain an enrolment register that contains the required information and allows for accurate data collection for census purposes.

Evidence requirements

There must be evidence in the form of:

- the school's enrolment register
- processes and procedures to ensure the enrolment register is kept up-to-date.

Explanatory notes

Enrolment and attendance registers serve different purposes. The enrolment register records the total number of students enrolled in the school, whereas the main purpose of the attendance register is to record the daily attendance of each student and reasons for any absences (see Attendance register for details).

Regulatory context

A registered school must maintain a register of enrolments that contains the following information in relation to each student enrolled at the school –

- (a) the student's name, age and address;
- (b) the name and contact details of any parent or guardian of the student;
- (c) the date of enrolment of the student;
- (d) the Victorian student number allocated to the student under Part 5.3A of the Act;
- (e) the date that the student ceases to be enrolled at the school (if applicable).

Schedule 4 clause 9 of the Education and Training Reform Regulations 2017

Attendance register

A registered school must maintain a student attendance register recording the attendance of students of compulsory school age (6–17 years). An attendance register records any unexplained absences to ensure:

- the care, safety and welfare of students
- continuity of learning.

An attendance register must record student attendance at least twice a day and record any given or apparent reason for student absences.

Evidence requirements

For a school applying to register

There must be evidence of the form that the attendance register will take.

For a registered school

There must be evidence in the form of an attendance register that records attendance of all students enrolled at the school, for each calendar year. The register must show twice-daily attendance checks and any given or apparent reasons for absence.

Explanatory notes

Under section 2.1.4 of the Act a school principal or teacher may ask a parent for an explanation if their child has been absent from school. The section also requires the principal to keep a record in writing of the reasons (if any) given by the parent.

Regulatory context

A registered school must maintain a student attendance register in which –

- (a) the attendance at the school of any student of compulsory school age is noted at least twice on each school day; and
- (b) any reason given or apparent for the absence of the student from the school is noted.

Schedule 4 clause 11 of the Education and Training Reform Regulations 2017

Legislative context

- (1) The principal of, or a teacher at, a registered school at which a child of compulsory school age is enrolled may ask a parent of the child for an explanation of the reason for the child's failure to attend the school at a time when the school was open for the child's instruction.
- (2) The principal must ensure that record in writing is made of the reason (if any) given by the parent.

Part 2.1.4 of the **Education and Training Reform Act 2006**

Curriculum and student learning**Curriculum framework**

A school provides all students with a planned and structured curriculum to equip them with the knowledge, skills and attributes needed to complete their schooling and to make a successful transition from school to work, training or further education.

Evidence requirements

There must be evidence of:

- a curriculum plan showing how the learning areas will be substantially addressed and how the curriculum will be organised and implemented
- an explanation of how and when the curriculum and teaching practice will be reviewed
- an outline of how the school will deliver its curriculum.

Explanatory notes

The learning areas are:

- English
- mathematics
- sciences (including physics, chemistry and biology)
- humanities and social sciences (including history, geography, economics, business, civics and citizenship)
- the arts
- languages
- health and physical education
- information and communication technology, and design and technology.

The VRQA may exempt a school from addressing one or more of the learning areas if the school is a specialist school, registered for a specific purpose or for other reasons determined by the VRQA (regulation 61, ETR Regulations).

Schools offering a senior secondary qualification must meet the requirements of the relevant awarding body (refer to page 30).

Schools seeking Commonwealth funding are required to deliver the Australian Curriculum or an Australian Curriculum, Assessment and Reporting Authority approved curriculum.

Regulatory context

A registered school must have a curriculum framework in place –

- (a) for the organisation and implementation of the school’s curriculum and teaching practices; and
- (b) to ensure that, taken as a whole, the learning areas set out in Schedule 1 to the Act are substantially addressed; and
- (c) to provide for the review of the curriculum and teaching practices.

Schedule 4 clause 6 of the Education and Training Reform Regulations 2017. Exceptions apply, see explanatory notes.

Student learning outcomes

A school must have appropriate processes in place to support all its students to progress towards and achieve the learning outcomes normally expected for its student cohort, and for the school to plan for and achieve improvements in those learning outcomes.

Evidence requirements

There must be evidence in the form of a documented strategy to improve student learning outcomes.

The strategy must include:

- policies and procedures for reviewing the curriculum and teaching practices
- the processes the school will use to set goals and targets for outcomes for all students including students at risk
- what data will be collected, and how it will be analysed and used to improve student learning outcomes.

Regulatory context

The registered school must have processes in place that enable it to plan for, and achieve improvement in, student learning outcomes.

Schedule 4 clause 2 of the Education and Training Reform Regulations 2017

Monitoring and reporting on students' performance

A school must undertake ongoing assessment, monitoring and recording of all students' performance and report on performance, in writing, to parents and guardians at least twice a year.

Evidence requirements

There must be evidence in the form of the school's policies and procedures for assessing and monitoring student progress and achievement, and how this is reported to parents and guardians. This evidence must include statements about how it meets Commonwealth Government student reporting requirements.

Regulatory context

- (1) A registered school must ensure that –
 - (a) there is ongoing assessment, monitoring and recording of each student's performance at the school; and
 - (b) each parent of a student enrolled at the school and the student has access to accurate information about the student's performance at the school.
- (2) The access to information must include at least 2 written reports, relating to the student's performance, from the registered school to the parent in each year of enrolment of the student.

Schedule 4 clause 3 of the Education and Training Reform Regulations 2017

Information about school performance

A school must monitor and report to the school community on its performance as outlined in the ETR Regulations (see **Regulatory context** for further detail).

Evidence requirements

There must be evidence of:

- a copy of the school's annual report that contains the mandatory information
- information required under regulation 60 of the Australian Education Regulations 2013, which lists the information a school must make publicly available as a condition of Commonwealth funding and details of how the school community can access the information.

Regulatory context

- (1) A registered school must make available to the school community information concerning the school's performance at least once a year.
- (2) The information must include –
 - (a) a description and analysis of student learning outcomes achieved by the school's students in state wide tests and examinations in which the school participates for –
 - (i) the current year; and
 - (ii) if the school has been established for more than 2 years, the previous 2 years; and
 - (b) a description and analysis of rates of student attendance for the year; and
 - (c) a report of the school's financial activities; and
 - (d) copies of any other reports the school is required to prepare for the school community under any funding agreements with the State or the Commonwealth.

Schedule 4 clause 18 of the Education and Training Reform Regulations 2017

Care, safety and welfare of students

A school must have policies and procedures to provide students with a safe environment where the risk of harm is minimised and students feel safe. The school is responsible for ensuring all staff are aware of their legal obligations.

Evidence requirements

There must be evidence of the school's policies and procedures for:

- the duty of care owed to students including:
 - that it owes all students a duty of care to take reasonable measures to protect them from reasonably foreseeable risks of injury
 - that it owes a duty to take reasonable care that any student (and other persons) on the premises will not be injured or damaged because of the state of the premises, including things done or omitted to be done to the premises
 - that it owes a duty to take reasonable precautions to prevent the abuse of a child by an individual associated with the organisation while the child is under the care, supervision or authority of the organisation
 - that different and sometimes greater measures may need to be taken for younger students or students with disabilities to discharge this duty of care
- when it may be necessary to use restrictive interventions to protect the safety of a student and members of the school community. Note: government schools are required to follow DET's policy on Restraint of Students and are not required to have a local policy on restrictive interventions
- managing student wellbeing, including:
 - anti-bullying and harassment, including cyber bullying
 - appropriate arrangements for on-site supervision of students
 - appropriate arrangements for supervision of students when engaged in off-site activities and which include consideration of the risk of bushfire in the activity location (refer to **Emergency Bushfire Management** on page 25)
 - ensuring the safety and welfare of students learning with another provider (when the school contracts with another school, a registered training organisation or an organisation not registered as an education or training provider)
 - arrangements for ill students
 - accident and incident register
 - first aid
 - distributing medicine
 - internet use
- managing complaints and grievances including how the school's policies and procedures:
 - ensure procedural fairness
 - are accessible to the school community and are consistent with the school's enrolment agreement.

There must be evidence of the school's:

- current register of staff trained in first aid
- records of student medical conditions and management, or a pro forma for a school applying to register
- emergency management plan which must be updated as required, reviewed at least annually and immediately after any significant incident (this plan must be site specific and include local threats, hazards and corresponding response procedures).

There must also be evidence of how the school communicates policies and procedures on the care, safety and welfare of students to staff, students, parents, guardians and the school community.

Explanatory notes

An emergency management plan addresses emergency and critical incidents which include:

- circumstances that pose a critical risk to the health, safety or wellbeing of one or more students or staff
- incidents requiring school closure, lockdown, or reduction of number of students or staff attending
- death or serious injury of a student or staff member at school or at another location authorised by the school, for example, with another provider such as a registered training organisation.

A school should update the emergency management plan as required throughout the course of the year as activities such as school camps and excursions are approved by the school governing body.

Regulatory context

A registered school must ensure that –

- (a) the care, safety and welfare of all students attending the school is in accordance with any applicable State and Commonwealth laws; and
- (b) all staff employed at the school are advised of their obligations under those laws.

Schedule 4 clause 12 of the Education and Training Reform Regulations 2017

Child safety

There must be evidence of the school's policies and procedures for ensuring all staff understand:

- mandatory reporting
- the failure to disclose offence
- the failure to protect offence
- the grooming offence under the **Crimes Act 1958** which is included in the definition of child abuse in Ministerial Order No. 870.

These offences are explained in Appendix 1. For more information about mandatory reporting, the failure to disclose and the failure to protect offence, see:

- www.dhhs.vic.gov.au

Child Safe Standards

A registered school must have developed policies, procedures, measures and practices in accordance with Ministerial Order No. 870 Child Safe Standards – Managing the risk of child abuse in schools.

Meeting the requirements of the Ministerial Order is the direct responsibility of the school governing body and the school principal.

The school must have clear policies and procedures in place which are appropriate for its student cohort and consistent with the school's philosophy.

The VRQA has a number of resources to help schools meet their compliance requirements.

For more information, see:

- www.vrqa.vic.gov.au/schools

For a copy of the Ministerial Order, see:

- <http://www.gazette.vic.gov.au/gazette/Gazettes2016/GG2016S002.pdf>

Reportable Conduct Scheme

Under the Reportable Conduct Scheme, a head of an organisation is required to notify the Commission for Children and Young People of all allegations of reportable conduct by employees and volunteers.

More information is available at:

- www.ccyp.vic.gov.au

Legislative context

The school (must have) developed policies, procedures, measures and practices in accordance with a Ministerial Order for managing the risk of child abuse including –

- (i) the implementation of minimum standards for a child safe environment; and
- (ii) responding to allegations of child abuse committed against a child enrolled at the school or committed by an employee or a student, contractor or volunteer of the school or other person connected with the school.

Section 4.3.1(6)(d) of the Education and Training Reform Act 2006**Anaphylaxis management policy**

A registered school must have developed a policy and have procedures in place for any student at risk of anaphylaxis.

The policy and procedures must be in accordance with Ministerial Order No. 706.

The VRQA has resources to help schools. For more information, see:

- www.vrqa.vic.gov.au/schools

For a copy of the Ministerial Order, see:

- www.gazette.vic.gov.au/gazette/Gazettes2015/GG2015G050.pdf#page=26

Legislative context

If the school has enrolled a student in circumstances where the school knows, or ought reasonably to know, that the student has been diagnosed as being at risk of anaphylaxis, the school has developed an anaphylaxis management policy containing matters required by a Ministerial Order to be included in the policy

Section 4.3.1(6)(c) of the Education and Training Reform Act 2006**Emergency bushfire management**

All registered schools are required to meet the VRQA Guidelines for Bushfire Preparedness—Registered Schools.

These requirements are in addition to a school's obligations under the minimum standard for the care, safety and welfare of students and the minimum standard relating to buildings, facilities and grounds.

There are additional requirements for schools listed on the DET's Bushfire At-Risk Register.

To find out if your school is to be placed on the Bushfire At-Risk Register, contact:

- emergency.management@edumail.vic.gov.au

For more information on bushfire preparedness, see:

- www.vrqa.vic.gov.au/schools

Student behaviour management (discipline)

A school must have policies and procedures to promote a consistent and fair approach toward managing student behaviour.

Evidence requirements

There must be evidence of:

- a policy that explicitly prohibits corporal punishment
- a behaviour management policy and procedures which include an explanation of the school's approach to behaviour management and how it affords procedural fairness to students.

For non-government schools:

- a policy that outlines the steps for managing suspensions and expulsions of students and how this is communicated to parents and guardians, including:
 - procedures for maintaining a register of suspensions and expulsions
 - an outline of how the school communicates these policies and procedures to the school community.

For government schools:

- there must be evidence to demonstrate compliance with Ministerial Order No. 1125– Procedures for Suspension and Expulsion of Students in Government Schools.

Explanatory notes

Schools use a variety of approaches to promote positive student behaviour and to reduce and resolve conflict. Whatever approach is adopted, it must be clearly communicated to the whole school community.

Legislative context

A school's policies relating to the discipline of students are based on principles of procedural fairness and must not permit corporal punishment.

Section 4.3.1(6)(a) of the **Education and Training Reform Act 2006**

Attendance monitoring

A school must ensure the safety of students while engaged in school activities. A school must have policies and procedures to monitor student attendance and to follow up unexplained absences.

Evidence requirements

There must be evidence of the school's policy and procedures to:

- check and record the daily attendance of all students
- monitor attendance twice daily and identify absences from school or class
- identify the person(s) with responsibility for monitoring daily attendance
- follow up unexplained absences on the day of a student's absence
- notify parents and guardians of unsatisfactory attendance
- maintain current contact details for parents and guardians
- accurately record attendance on student files.

Regulatory context

A registered school must –

- (a) monitor the daily attendance of each student enrolled at the school; and
- (b) identify any absences of a student from school including classes; and
- (c) follow up any unexplained absences of a student from the school or classes; and
- (d) notify any parent or guardian regarding a student's unsatisfactory school or class attendance; and
- (e) record information regarding a student's unsatisfactory attendance at school or classes on the student's file.

Schedule 4 clause 10 of the Education and Training Reform Regulations 2017

Staff employment

Teachers' requirements

A school can only employ teachers registered with the Victorian Institute of Teaching (VIT), or those who have permission to teach under Part 2.6 of the Act.

Evidence requirements

There must be evidence in the form of:

- a register of teachers containing each teacher's:
 - name
 - VIT teacher registration number
 - expiry and renewal date
 - VIT category of registration (full registration, permission to teach)
- procedures for maintaining the register
- procedures for managing teachers with conditions, limitations or restrictions on their registration or permission to teach.

Explanatory notes

VIT is responsible for the registration of teachers employed in Victorian schools.

Regulatory context

All teachers employed to teach at a registered school must –

- (a) be registered under Division 3 of Part 2.6 of the Act or be granted permission to teach under Division 4 of that Part; and
- (b) comply with any condition, limitation or restriction of that registration or permission to teach.

Schedule 4 clause 4 of the Education and Training Reform Regulations 2017

Compliance with the Working with Children Act 2005

All people employed at a school must meet the requirements of the **Working with Children Act 2005**.

Evidence requirements

There must be evidence of:

- procedures to ensure that all employees and volunteers required to do so by the **Working with Children Act 2005** have a current Working with Children Check
- a register of employees and volunteers with a Working with Children Check which includes each employee's:
 - name
 - card number
 - expiry date
- procedures for maintaining the register.

Explanatory notes

The **Working with Children Act 2005** requires all employees, contractors and volunteers to obtain a Working with Children Check if they are engaged in child related work.

Child related work:

- involves contact that is direct and a part of the person's duties, and
- includes but is not limited to work at or the following activities: a school or other educational institution, accommodation services provided for students on an overseas student exchange program (including homestay), coaching or tuition services for children, publicly funded or commercial transport services for children, counselling, overnight camps, school crossing services, commercial photography services specifically for children, any work engaged in by a minister of religion unless any direct contact with children is only occasional and incidental to that person's work.

For a full list of what constitutes child related work schools should refer to section 9 of the **Working with Children Act 2005**.

A teacher registered with VIT does not need a Working with Children Check.

A teacher whose registration is suspended is not registered and must not teach. If they are employed in a non-teaching capacity they need a Working with Children Check.

For more information about who needs to apply for a Working with Children Check, see:

- <https://www.workingwithchildren.vic.gov.au>

Regulatory context

The requirements of the **Working with Children Act 2005** must be complied with in respect of the employment of all staff at a registered school.

Schedule 4 clause 5 of the Education and Training Reform Regulations 2017

School infrastructure

Buildings, facilities and grounds

A school's buildings, facilities and grounds must meet all legal and health and safety requirements.

Evidence requirements

There must be evidence of:

- a permit to operate an education centre on the site
- building and facility compliance with local planning regulations and with the Building Code of Australia, Class 9b or equivalent
- an essential safety measures register
- a maintenance schedule for buildings, facilities and grounds
- policy and procedures to ensure the school complies with the **Occupational Health and Safety Act 2004**
- documentation that reasonable adjustments have been made for students with a disability.

Explanatory notes

A school may choose to seek advice from an external agency such as:

- the Victorian WorkCover Authority to establish its compliance with occupational health and safety requirements
- the Victorian Building Authority or local municipal building surveyor to establish its compliance with relevant building legislation including matters relating to combustible cladding including expanded polystyrene or aluminium composite panels with a polyethylene core.

A school on the Bushfire At-Risk Register with an on-site 'shelter-in-place' must comply with the *VRQA Guidelines for Bushfire Preparedness – Registered Schools*. Refer to page 25 of the Guidelines.

- In some cases, a certificate of continual use can be provided in lieu of a Building Code of Australia, Class 9b.

Regulatory context

A registered school's buildings, facilities and grounds must comply with any laws that apply to the school including local laws and building, planning and occupational health and safety laws.

Schedule 4 clause 13 of the Education and Training Reform Regulations 2017

Educational facilities

A school's facilities must be adequate for delivery of the school's curriculum and co-curricular programs and suit its student cohorts' age and needs.

The school must be prepared to make reasonable adjustments to accommodate students with additional needs.

Evidence requirements

There must be evidence in the form of a plan of the school showing the location of facilities available for each program offered across the school day.

Regulatory context

The educational facilities of a registered school must be suitable for the educational programs offered by the school and the age levels of the students attending the school.

Schedule 4 clause 14 of the Education and Training Reform Regulations

The minimum standards for schools offering a senior secondary course**Victorian accredited senior secondary courses and qualifications**

A **senior secondary awarding body** awards, confers or issues an accredited senior secondary qualification. The Victorian Curriculum and Assessment Authority (VCAA) and the International Baccalaureate (IB) are registered by the VRQA as awarding bodies.

In Victoria, the accredited senior secondary qualifications are the VCE, VCAL and the IB Diploma Programme.

Schools applying to offer a senior secondary qualification must meet the minimum standards for schools as set out in the Act and the ETR Regulations, as well as the minimum standards for registration to provide an accredited senior secondary course (Schedule 9, regulation 86, ETR Regulations).

Schools must also obtain VCAA or/and IB authorisation to deliver their respective courses.

A senior secondary course comprises units or subjects of study, which upon successful completion of the course requirements, leads to a qualification.

Schools will generally apply to offer an accredited senior secondary course after successfully delivering a Years 7–10 program for a number of years.

Requirements for delivering a senior secondary course

The requirements for registration to deliver the VCE, VCAL or IB Diploma Programme ensure the school is able to demonstrate it can provide a quality program to its students in the final years of their school education.

If the school shares responsibility for delivering a senior secondary course with another provider, there must be evidence in the form of a copy of a written agreement between the school and the provider stating how the requirements of the minimum standards for delivery of a senior secondary course will be met.

Principles to apply

The evidence required for this standard is addressed in the standard for a registered school under **School governance – Democratic principles** on page 8.

Regulatory context

- (1) The programs and teaching of a senior secondary education provider must support and promote the principles and practice of Australian democracy, including a commitment to –
 - (a) elected government; and
 - (b) the rule of law; and
 - (c) equal rights for all before the law; and
 - (d) freedom of religion; and

- (e) freedom of speech and association; and
 - (f) the values of openness and tolerance
- (2) Nothing in this clause is intended to affect any right accorded to, or compliance with any obligation imposed on, a provider under an enactment of the State or of the Commonwealth.

Schedule 8 clause 1 of the Education and Training Reform Regulations 2017

Governance and probity

A registered school delivering an accredited senior secondary course must have its governance structured to effectively manage its:

- finances
- physical environment of each place where the course is offered
- staff
- students.

Evidence requirements

A school will need to demonstrate it complies with the minimum standard for school registration relating to **Governance** (page 8) and **Not-for-profit** (page 9).

In addition there must be evidence that:

- the physical environment is sufficient to support the delivery of the course
- teachers are suitably qualified and experienced
- there are procedures to support students to undertake a course best suited to their abilities
- there are sufficient financial resources to deliver the course to the standards of the awarding body.

Regulatory context

- (1) The governance and management of a senior secondary education provider must be structured to enable the provider to effectively manage –
- (a) the finances of the provider; and
 - (b) the physical environment of each place where the course is offered by the provider; and
 - (c) the staff of the provider; and
 - (d) the students enrolled in the course offered by the provider.
- (2) A senior secondary provider must ensure that suitable arrangements are in place to enable –
- (a) the provider to respond to and supply any information requested by the Authority in regard to matters listed in section 4.3.11 (2) of the Act; and
 - (b) the provider to comply with any relevant guidelines issued by the Authority under section 4.3.11 (3) of the Act; and
 - (c) the Authority to conduct an audit on the operation of the person, body or school in relation to the prescribed minimum standards.
- (3) If a senior secondary education provider is not the owner of the accredited senior secondary course, the provider must –
- (a) be authorised by the owner of the course to provide that course; and
 - (b) comply with the conditions relating to that authorisation.
- (4) A senior secondary education provider must not provide instruction in an accredited senior secondary course at a school unless it is a registered school.

Schedule 8 clause 6 of the Education and Training Reform Regulations 2017

Student learning outcomes

A registered school must deliver the course to the awarding body's standards and ensure students who complete the course requirements are awarded the qualification.

Evidence requirements

There must be evidence of:

- course curriculum and assessment documentation, and student attainment and administration documentation in accordance with the requirements of the awarding body
- documentation to demonstrate that the school provides staff and students with current and accurate information about the awarding body's requirements including course standards, timelines and qualification requirements.

Regulatory context

A senior secondary education provider that provides, or proposes to provide, an accredited senior secondary course must –

- (a) deliver the course to the standards established by the awarding body for the qualification; and
- (b) ensure that a student who satisfactorily completes all of the course requirements will be entitled to be awarded the registered qualification.

Schedule 8 clause 2 of the Education and Training Reform Regulations 2017

Student records and results

A school must have policies and procedures to ensure the integrity of assessment, the accuracy of records and the monitoring of student participation, completion rates and student outcomes. The policies and procedures must also cover results analysis and student participation in accordance with the requirements of the awarding body.

Evidence requirements

There must be evidence of policies and procedures to ensure the:

- integrity of assessment
- accuracy of records
- monitoring of student participation, completion rates and student outcomes.

The policies and procedures must also cover results analysis and student participation in accordance with the requirements of the awarding body.

Regulatory context

- (1) A senior secondary education provider must have policies and procedures in place –
 - (a) to maintain accurate student records and ensure the integrity of student assessments; and
 - (b) if the provider is –
 - (i) not the awarding body, to enable compliance with the requirements of the awarding body for the course with regard to the assessment program and the timely provision of student enrolments and results; or
 - (ii) also the awarding body, to deal with the assessment program and the timely provision of student enrolments and results; and
 - (c) to monitor patterns of student participation and completion rates, and the quality of outcomes of students in the registered senior secondary education qualification; and
 - (d) to undertake an annual analysis (that is made publicly available) of student participation and completion rates and outcomes.
- (2) A senior secondary education provider must –
 - (a) prepare and maintain records of student assessments; and

- (b) comply with appropriate requests to provide copies of a student's records to the student or a person authorised by the student to receive the records.
- (3) A senior secondary education provider must have processes in place that comply with the requirements of the awarding body for the course for –
- (a) the accurate and timely issuing of qualifications; and
 - (b) for the retention, archiving and retrieval of sufficient information about student enrolments and results to enable the re-issue of statements and certificates if required.

Schedule 8 clause 4 of the Education and Training Reform Regulations 2017

Student welfare

A school must have policies and procedures to ensure the care, safety and welfare of its students. There must also be opportunities for students with special needs to access the course.

A school must have appropriate procedures in place to manage the care, safety and welfare of students where two or more senior secondary education providers share the responsibility for providing an accredited senior secondary course.

Evidence requirements

The policies and procedures required to meet this standard are covered in Care, safety and welfare of the minimum standards for school registration on page 22.

The policies and procedures must cover any additional arrangements the school has in place for senior secondary students, for example:

- how attendance is monitored for students participating in courses provided by another senior secondary course provider
- supervision of students outside scheduled classes.

The policies and procedures should also address how the school identifies students' special needs and how opportunities are provided so those students can access the senior secondary course.

Regulatory context

- (1) A senior secondary education provider must have policies and procedures in place that are consistent with any relevant laws and legislation to ensure the care, safety and welfare of students and the provision of opportunities for students with special needs to access the course.
- (2) If two or more senior secondary education providers share the responsibility for providing an accredited senior secondary course or its components to a student, each of those providers must have procedures in place to identify and satisfy the legal duties owed to the student while the student attends, travels between or undertakes an excursion with the providers.

Schedule 8 clause 3 of the Education and Training Reform Regulations 2017

Teaching and learning

A school must have suitable teaching resources, physical facilities, and competent and qualified staff to teach and assess the course.

Evidence requirements

There must be evidence of:

- an overview of teaching resources and facilities and that they meet the current requirements of the awarding body
- policies and procedures:
 - to ensure the assessment of senior secondary courses is fair, valid and reliable
 - to oversee the conduct of assessments including:
 - o addressing cheating, including plagiarism
 - o conducting investigations and hearings and if necessary, amending or cancelling assessments

- a student handbook and resources which address the senior secondary course rules and procedures for assessment.

Regulatory context

A senior secondary education provider must have –

- (a) qualified and competent staff to teach and assess the course; and
- (b) suitable teaching resources and physical facilities to provide the course; and
- (c) processes to ensure the consistent application of assessment criteria and practices; and
- (d) processes to oversee the conduct of assessments of the course including processes to conduct investigations and hearings and, if necessary, amend or cancel assessments.

Schedule 8 clause 5 of the Education and Training Reform Regulations 2017

Other requirements for school registration**Reporting to the VRQA**

A school, upon request, must provide the VRQA with the information it needs to carry out its responsibilities under the Act and ETR Regulations.

Explanatory notes

Once a school is registered, the VRQA may require the proprietor, principal or review body to provide a report that:

- enables the VRQA to assess whether the school is continuing to comply with the minimum standards or other requirements
- informs the VRQA of any changes to a school's details contained in the State Register
- provides information about any complaint made about the school and how the principal responded to the complaint.

The VRQA will give the proprietor or principal a reasonable time to comply with its request for information. The proprietor or principal must comply with the request within the time specified. The VRQA's request and the information provided must be in writing, unless the parties agree otherwise.

Regulatory context

The proprietor or principal of a registered school must provide to the Authority in accordance with the regulations a report containing the information required by the regulations.

Section 4.3.5(1) of the Education and Training Reform Act 2006

Regulation 71 (1) of the Education and Training Reform Regulations 2017 lists the relevant information for the purpose of the above section and is reproduced below.

71(1) For the purpose of section 4.3.5(1) of the Act, the proprietor or principal of a registered school, or a person or body authorised by the Authority under section 4.3.5(2) of the Act, must provide a report containing the following information –

- (a) information to show that, and enable the Authority to assess whether, the registered school–
 - (i) continues to comply with each of the prescribed minimum standards for registration set out in Schedule 4; and
 - (ii) complies with any other requirements of the Act or these Regulations; and
- (b) information to advise the Authority of any changes in the details contained in the State Register relating to the school; and

- (c) at the request of the Authority, information to advise the Authority of –
- (i) information to advise the Authority of –
 - (A) any complaint lodged by any member of the public alleging any breach by the school of an obligation under these Regulations to implement any of the principles in section 1.2.1(a), (c), (e) and (f) of the Act; and
 - (B) how the principal of the school responded to that complaint
 - (ii) a copy of the information made available under clause 18 of Schedule 4.

Regulation 71(1) of the Education and Training Reform Regulations 2017

Amending school registration

The VRQA accepts applications from independent schools wishing to amend their registration. Catholic schools should make their application through CECV and government schools through DET's Schools and Regional Services group.

An independent school wishing to amend its registration must make an application to the VRQA if they wish to:

- add an additional year level
- add an additional campus
- change a school's type of registration
- change the proprietor of the school, or
- change any other particular of its registration.

Changing a school's legal entity

School registration is not transferrable. If a school wishes to change its legal entity, for example, move from an unincorporated association to a company limited by guarantee, it must make an application for registration.

Catholic schools wishing to change legal entity should contact CECV. Independent schools should contact the VRQA at:

- vrqa.schools@edumail.vic.gov.au

Regulatory context

The following persons may apply to the Authority for an amendment to the registration of a registered school –

- (a) in the case of a Government school, the Secretary;
- (b) in the case of a non-government school, the principal or the proprietor of the school.

Regulation 67 of the Education and Training Reform Regulations 2017

Timing of application

- (1) Subject to subregulation (3), an application must be made to the Authority no later than –
 - (a) 30 June in the year before the year in which the school intends to implement the change to the school that is the subject of the application to amend the registration; or
 - (b) a later date in the year determined by the Authority
- (2) The Authority may publish a notice in the Government Gazette of any later date determined under subregulation (1)(b) at least 4 weeks before 30 June in the year in which the date applies
- (3) The Authority may accept an application submitted after the date specified in subregulation (1) if it is satisfied that it is necessary to do so because of the special circumstances of the case.

Regulation 68 of the Education and Training Reform Regulations 2017

Adding a year level

A registered school must seek VRQA approval to provide an additional year level.

Evidence requirements

Applications must be in writing on the relevant application form. For more information, see:

- www.vrqa.vic.gov.au/schools

Regulatory context

A registered school must –

- (a) offer only the levels of education in respect of which the school is registered

Schedule 4 clause 22 of the Education and Training Reform Regulations 2017

- (b) In the case of an application to include an additional year level of education at the school –
- contain all the particulars and information listed in Schedule 7; and
 - be accompanied by evidence that the school will continue to be conducted as a not-for-profit school.

Regulation 69(c) of the Education and Training Reform Regulations 2017

Establishing an additional campus

A registered school intending to establish an additional campus must make an application to the VRQA to amend its registration.

Evidence requirements

Applications must be in writing on the relevant application form. To access the form, see:

- www.vrqa.vic.gov.au/schools

Explanatory notes

The ETR Regulations provide a definition of **campus** which is available at **Appendix 1**.

Regulatory context

A registered school must only be conducted at the campus or place (excluding school camps or excursions or places outside of Victoria) in respect of which it is registered.

Schedule 4 clause 22 of the Education and Training Reform Regulations 2017

- (b) in the case an application to include an additional campus at the school –
- contain all the particulars and information listed in Schedule 6; and
 - be accompanied by any documentation referred to in Schedule 6; and evidence that the school will continue to be conducted as a not-for-profit school

Regulation 69(b) of the Education and Training Reform Regulations 2017

Changing a school's type of registration

A school must be registered as one or more of the following types:

- a primary school
- a secondary school
- a co-educational school
- a single sex school
- a specific purpose school, such as a school that provides an alternative educational program
- a specialist school, such as a school that caters mainly for students with disabilities or with social, emotional or behavioural difficulties (Schedule 5, clause 10, ETR Regulations).

A registered school intending to vary its registration type, must make an application to the VRQA to amend its registration.

Evidence requirements

A school that intends to vary its type of registration must ensure that it meets all the minimum standards as they apply to its intended type of registration.

Evidence is required if a variation of registration is likely to affect compliance with other standards, such as:

- philosophy
- enrolment
- attendance
- curriculum framework
- educational facilities
- arrangements for the care, safety and welfare of students.

Applications must be in writing. For more information, see:

- www.vrqa.vic.gov.au/schools

Regulatory context

A school must only be conducted as the type of school in respect of which it is registered.

Schedule 4 clause 22 of the Education and Training Reform Regulations 2017

All other applications

A registered school wishing to make changes to its registration must make an application to the VRQA to amend its registration.

The application must include any information or documents the VRQA reasonably requires to assess the application. The information and documents requested will depend upon the nature of the change a school wishes to make to its registration.

Evidence requirements

Applications must be in writing. For more information, contact the VRQA at:

- vrqa.schools@edumail.vic.gov.au

Regulatory context

In any other case, an application must include any particulars or information, and be accompanied by any documentation, which the Authority reasonably requires for the purpose of assessing the application.

Regulation 69(d) of the Education and Training Reform Regulations 2017

Appendix 1

Definitions

Unless otherwise stated, words or phrases in this appendix have the following meaning:

Accredited Senior Secondary Course – means a course leading to a senior secondary qualification and any other accredited course pertaining to Year 11 or 12 that is accredited by the Authority under Chapter 4 of the Act.

Awarding body – means a person or body that is registered on the State Register to award, confer or issue a registered qualification.

Campus – the regulations state that ‘campus’ means a location at which part of a school is conducted or proposed to be conducted under the name of the campus as part of a registered school and -

- a) the campus and the school have a common governing body or the governing body of the campus is responsible to the governing body of the school; and
- b) in the case of a non-government school, the campus and the school have the same proprietor.

Conduct – of a school, includes:

- a) fund-raising activities conducted solely for the school; and
- b) the provision of goods and services and other matters or things to students attending the school; and
- c) the provision of other educational services that are within the scope of the school’s registration.

Early learning centre (ELC) – means a premises at which an approved education and care service (within the meaning of the Education and Care Services National Law (Victoria)) provides education and care to children, including 3 or 4-year-old kindergarten. The service is not provided for the purpose of profit or gain and the service is a feeder for enrolments to the school.

Note: playgroups do not fall within the definition of an ELC.

Entity includes a trust.

Government funding – in relation to a school, means money that is provided to a school under an agreement or an arrangement with the State or the Commonwealth.

Mandatory reporting, failure to disclose, failure to protect and grooming

- the **mandatory reporting obligation** is set out in Part 4.4 of the **Children, Youth and Families Act 2005**. Section 184 imposes an obligation on teachers, principals and other persons listed in section 182, to make a mandatory report if they form a belief on reasonable grounds that a child is in need of protection on the grounds that the child has suffered, or is likely to suffer, significant harm because of physical injury or sexual abuse, and the child’s parents have not protected, or are unlikely to protect, the child from harm of that type.
- the **failure to disclose offence** requires any adult (subject to specific exemptions) who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16, to report that information to police. Failure to disclose the information to police is a criminal offence. Further information can be obtained at:
 - <https://www.justice.vic.gov.au/safer-communities/protecting-children-and-families/failure-to-disclose-offence>
- the **failure to protect offence** applies where there is a substantial risk that a child under the age of 16 under the care, supervision or authority of a school will become a victim of a sexual offence committed by an adult associated with that school. A person in a position of authority in the school will commit the offence if they know of the risk of abuse and have the power or responsibility to reduce or remove the risk, but negligently fail to do so. Organisations other than schools are also covered by the offence. Further information is available at:
 - <https://www.justice.vic.gov.au/safer-communities/protecting-children-and-families/failure-to-protect-a-new-criminal-offence-to>

- The **offence of grooming for sexual conduct with a child under the age of 16** is found in section 48M of the **Crimes Act 1958**. That section provides:

- (1) A person (A) commits an offence if –
 - (a) A is 18 years of age or more; and
 - (b) A communicates, by words or conduct (whether or not a response is made to the communication), with –
 - (i) another person (B) who is a child under the age of 16 years; or
 - (ii) another person (C) under whose care, supervision or authority B is; and
 - (c) A intends that the communication facilitate B engaging or being involved in the commission of a sexual offence by A or by another person who is 18 years of age or more.
- (2) A person who commits an offence against subsection (1) is liable to level 5 imprisonment (10 years maximum).
- (3) A does not intend to facilitate B engaging or being involved in the commission of a sexual offence by A or by another person who is 18 years of age or more if, were the conduct constituting the sexual offence to occur, A or the other person would satisfy an exception, or have a defence, to that sexual offence.
- (4) It is immaterial that some or all of the conduct constituting an offence against subsection (1) occurred outside Victoria, so long as B or C was, or B and C were, in Victoria at the time at which that conduct occurred.
- (5) It is immaterial that B or C was, or B and C were, outside Victoria at the time at which some or all of the conduct constituting an offence against subsection (1) occurred, so long as A was in Victoria at the time that conduct occurred.
- (6) It is immaterial that A, B and C were all outside Victoria at the time at which some or all of the conduct constituting an offence against subsection (1) occurred, so long as A intended that the sexual offence would occur in Victoria.
- (7) In this section –

communication includes an electronic communication within the meaning of the **Electronic Transactions (Victoria) Act 2000**;

sexual offence means –

 - (a) an offence against a provision of Subdivision (8A), this Subdivision (other than section 49K(1) or this section), (8C), (8D), (8E), (8F) or (8FA); or
 - (b) an attempt to commit an offence covered by paragraph (a); or
 - (c) an assault with intent to commit an offence referred to in paragraph (a).

Melbourne Statistical Area – the area comprising the Greater Melbourne Statistical Area described in Australian Statistical Geography Standard (ASGS): Volume 1 – Main Structure and Greater Capital City Statistical Areas, July 2016, published by the Australian Bureau of Statistics.

Overseas student a person holding a visa under the **Migration Act 1958** of the Commonwealth which allows the person, where expressly or otherwise, to study in Victoria.

Prohibited agreement or arrangement means an agreement or arrangement –

- (a) made between two or more of the following parties –
 - (i) the school;
 - (ii) the proprietor of the school;
 - (iii) another person or entity; and

- (b) where the purpose of the agreement or arrangement –
- (i) is to pay or divert any profit or gain made in the conduct of the school to the proprietor or any other person or entity (other than a payment made in good faith for the provision of goods or services to the school); or
 - (ii) involves a payment by the school or the proprietor of the school (as the case requires) to another person or entity which –
 - (A) is excessive compared to the reasonable market value of the charges, fees, rates or costs currently prevailing in the community for payment for that purpose (other than a payment made in good faith for that purpose); or
 - (B) involves a gift, loan or similar payment for a purpose unconnected to the conduct of the school (other than payments made to a bank in connection with the conduct of the school); or
 - (C) is otherwise not a payment made in good faith for the benefit of the school, or reasonably required for the conduct of the school – but does not include an agreement or arrangement under which the proprietor of the school provides money (other than government funding) or property of the school to a person or entity to conduct an early learning centre that is a feeder for enrolments to the school;

Payments under paragraph (b)(ii)(A) may include excessive fees or remuneration or other expenses paid to members of the school's governing body, or excessive rents, fees, or other charges paid to any other person or entity.

Payments under paragraph (b)(ii)(B) may include loans, guarantees, or indemnities payable for the recipient's own use or benefit; for example, a payment to benefit an enterprise conducted by the payment recipient where that enterprise is unconnected to the conduct of the school.

Payments under paragraph (b)(ii)(C) may include 'sham' arrangements that have the effect of transferring payments from the school to the recipient for the recipient's own purpose or benefit, and which deliver no benefit or service to the school.

Proprietor in relation to a school, means:

- a) a person, body, or institution who establishes, owns or controls one or more registered schools; or
- b) any person or body that is specified in the registration of the school as the proprietor of the school.

Responsible person means:

- a) if the proprietor is an individual, that person; or
- b) if the proprietor is a body, that body and any person who is concerned in, or takes part in, the management of the body; or
- c) each person with responsibility in the school governance structure for managing the school or its finances, including each member of the governing body of the school; or
- d) the principal of the school; or
- e) any other person who by the person's conduct assumes a position of authority over the governance or management of the school.

Senior secondary awarding body – a person or body that proposes to award, confer or issue a registered senior secondary qualification.

Senior secondary course – a course leading to a senior secondary qualification or any other course pertaining to Year 11 and 12.

Senior secondary education provider – a person, body or school providing or proposing to provide, an accredited senior secondary course.

Appendix 2

Abbreviations and Acronyms

CECV – Catholic Education Commission of Victoria Ltd

CRICOS – Commonwealth Register of Institutions and Courses for Overseas Students

Cwth – Commonwealth

DET – Victorian Department of Education and Training

ELC – Early Learning Centre

ESOS Act – **Education Services for Overseas Students Act 2000**

ETR Act – **Education and Training Reform Act 2006**

ETR Regulations – Education and Training Reform Regulations 2017

IB – International Baccalaureate

VCAL – Victorian Certificate of Applied Learning

VCAA – Victorian Curriculum and Assessment Authority

VCE – Victorian Certificate of Education

VIT – Victorian Institute of Teaching

VRQA – Victorian Registration and Qualifications Authority

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