Enrolment of students in government schools

This bulletin provides advice on issues relating to the enrolment of students in government schools and is designed to supplement the department's Enrolment of Students in NSW Government Schools - A Summary and Consolidation of Policy.

Principals should continue to refer to that policy document and to the department's Enhanced Enrolment Procedures for advice on matters not addressed in this bulletin.

Where can I get information if the student is a refugee?

Information about refugee students can be found on the department's Culture and diversity page.

Where can I get information about the impact of any family law issues on enrolment?

For information concerning enrolment where parents have separated or there are issues regarding names used for enrolment, please refer to the department's Dealing with Family Related Issues in Schools and TAFE NSW - Guidelines for School Staff and legal issues bulletin 20 - Changing the names of students in schools.

Where can I get information about the enrolment of a student with a history of violent behaviour?

For information concerning the enrolment of students with a documented history of violence, please refer to the Guidelines for the Management of Health and Safety Risks Posed to Schools by a Student's Violent Behaviour.

School Counsellors should also refer to Section 2.1.2 of the School Counsellor Manual for other action that may need to be taken by them concerning the enrolment of students with a history of violence.

If a student is required to attend an education and training unit (ETU), does this mean that the student has to enrol in the education and training unit?

No. If it is necessary for a student who is enrolled in a government school to temporarily attend an ETU, the Principal of the ETU should, in accordance with the department's enrolment policy, utilise the provision of the short term attendance procedures.

What needs to be done before a student can transition from an ETU to a government school?

The fact that a student is transitioning from an ETU does not necessarily mean the student poses health and safety risks to schools. If not already provided, the Principal can seek any relevant behavioural information about the student from the ETU to assist in the development of a risk assessment to facilitate the student's successful return to the school.
What do I need to do if a student is enrolling outside of a normal enrolment period?

If the student is enrolling in high school outside of the normal enrolment period (that is outside of the usual movement from primary into high school or from Year 10 into Year 11) the process set out in Memorandum DN/11/00007 applies. School Counsellors should also refer to Sections 2.1.3 and 4.1.5 of the School Counsellor Manual for other action that may need to be taken by them when a student enrolls outside of a normal enrolment period.

Can I ask for proof of eligibility to attend or entitlement to be enrolled at a school?

Yes. Section 34A of the Education Act 1900 indicates a Principal may require a person seeking to enrol a child in a school to provide proof, to the satisfaction of the Principal, of the child’s identity, date of birth and home address. This can include the production of any document or a statutory declaration or both. The documentation that is requested should be reasonably required to process the application to enrol.

What documentation can I rely on to establish that a prospective student is a "local enrolment"?

Principals can seek any information they consider to be of assistance in determining this issue. Such evidence may include council rate notices, accounts for electricity, gas or water, telephone bills, lease documents or electoral enrolment confirmation.

Can I insist on the provision of more than one document to establish a person's address?

Yes, if you believe there are reasonable doubts about the true residential address of the prospective student.

What do I do if the person claims they are living with someone but are not in a position to provide a copy of any of the usual range of notices or accounts?

Sometimes people state they are living with others in circumstances where there are no formal lease arrangements in place. In these situations, principals can ask the prospective student/parents for a statutory declaration in which the person confirms his or her residential address and that it is to be his or her place of residence during the school year. Principals can also ask the parents and or student for a statutory declaration from the "landlord" confirming the arrangements in place and his or her understanding the person intends to reside there during the school year.

What if the enrolment application indicates the student is living at an address which is different from the parents?

It is important to remember a local enrolment is determined by the address of the student. This may be different from that of the parents, particularly with older students. So long as the Principal is satisfied the information being provided is correct, the student's place of residence is his or her "home" for the purposes of enrolment.

If someone provides information about where they live which subsequently proves to be false, can the enrolment be terminated?

The Application to Enrol in a NSW Government School (2nd edition) requires the applicant to declare the information provided is correct. It also makes it clear the provision of false information can result in the enrolment being reversed. Any decision to reverse an enrolment needs to take into account the specific circumstances of the matter. This includes determining if the student was an "out of area enrolment" and whether acceptance of the enrolment application has resulted in the student gaining entry at the expense of other prospective students who may be on a waiting list.

Section 34A of the Education Act 1900 provides that the Director-General may terminate the enrolment of a child at a government school who is not entitled to be enrolled at the school if the child was enrolled as a result of false information of a false document provided to the Principal. This power has not been delegated to principals. Advice should be sought from Legal Services before a decision is made to terminate an enrolment under section 34(4) of the Act.
Do any legal ramifications arise if a person provides false information in order to gain enrolment in a particular school?

If a person knowingly provides materially false or misleading information to a school when making an application for enrolment, this may be an offence which has a penalty of up to 2 years imprisonment, $22,000 fine or both (Section 307B of the Crimes Act 1900).

If a person provides a statutory declaration he or she knows to be false for the purpose of gaining entry to a school, he or she commits an offence which has a maximum penalty of 7 years imprisonment (Section 25A of the Oaths Act 1900).

What documentation can I rely on to establish a child's age if a birth certificate is not available?

While a birth certificate is the primary document that establishes a child's date of birth, there is no legal requirement for schools to rely on a birth certificate for this purpose. If a birth certificate is not available, principals can rely on a range of secondary documents such as a passport, a NSW Ministry of Health Personal Health Record or “Blue Book”, a hospital birth card, baptism, christening, name giving or similar records.

If a birth certificate can be obtained but is not immediately available, enrolment can proceed on the basis of information given by the enrolling parents and on condition that a birth certificate confirming the information will be subsequently provided within a reasonable period, as determined by the Principal.

If an enrolling parent indicates there are no primary or secondary documents available, or does not provide a copy of a birth certificate within the period of time specified by the Principal, a statutory declaration should be obtained from the parents as to the date of birth of the student and the reasons why such documents are not available.

What should I do if after enrolment, I am provided with a birth certificate which indicates a different date of birth to that provided at enrolment?

The individual circumstances of the matter need to be considered in deciding what action to take. Factors such as any significant age difference between that indicated at enrolment and on the certificate, whether there is a good reason for the difference, the period of time the child has been enrolled in the school and whether the child is experiencing any educational, socialisation or peer issues because of the age discrepancy need to be considered in determining an appropriate response. Any decision made must be in the best educational interests of the child and should only be taken after consultation with the School Education Director.

An enrolling parent indicates that a birth certificate cannot be obtained and provides a statutory declaration giving details of the student's name and age. Subsequent to the enrolment, the other parent attends the school and provides a birth certificate which indicates a different name. What should I do?

If satisfied that the documentation provided by the non-enrolling parent is correct and does relate to the student concerned, contact should be made with the enrolling parent to seek his or her confirmation that the birth certificate is correct. If the enrolling parent is unable to provide other documentation which overrides the certificate provided (e.g. a court order authorising a different name or a birth certificate later in time which has been officially endorsed with the new name), generally the student's details should be changed to reflect the information contained in the birth certificate. The enrolling parent should be advised that to change the records back, it will be necessary to obtain either a court order, a new birth certificate endorsed with the new name or the written agreement of the other parent.

There may be situations however when it will not be in the best interests of the child to change the enrolment details. This will particularly apply if the student has been enrolled in the school or previous schools under the non-birth certificate name for a lengthy period of time. Each case needs to be determined on its own merits.

Factors to take into account include how long the child has been using the non-birth certificate name (both in and outside of school), the age of the child and, (unless the child is unable to understand the meaning and implications of the decision), the views of the child.
If the enrolling parents refuse to provide me with information that I require to satisfy myself of the address or age or both of the prospective student, can I decline the enrolment?

Yes but before formally declining the enrolment application, you should consult with and seek the approval of your School Education Director to confirm.

I am sometimes required to sign letters for agencies such as Centrelink or Medicare certifying the names of students at my school. The names recorded in those agencies may be different to that recorded by the school. What should I do?

In these circumstances, any letter from the school should confirm the name by which the student is enrolled at the school.

Do I have to accept an enrolment application on behalf of a student who is 17 years of age?

Yes. The approach taken should be the same as that applicable to students who are less than 17. Non-local enrolments will be subject to the criteria for non-local enrolment as set out in the school's enrolment policy. Local enrolments from eligible students must be accepted unless the student has a history of violence and a full and proper risk assessment indicates the school cannot satisfactorily manage the safety of the enrolling student, other students or staff - (refer to the Enhanced Enrolment Procedures, the Guidelines for the Management of Health and Safety Risks Posed to Schools by a Student's Violent Behaviour).

Do I have to accept an enrolment application on behalf of a student who is 18 or older?

If the prospective student is aged 18 years or more, there is no legal obligation to accept the enrolment. Principals should refer to the department's Enrolment Policy and DN/09/00335 – Enrolment of Adults in NSW Government Schools in relation to the enrolment of mature aged students.

Why do I have to accept an enrolment application on behalf of a student who has completed Year 10 of secondary education or is 17 years of age?

Because the Education Act 1900 provides every child has the right to enrol in their local school. For the purposes of the Education Act, child means any person under the age of 18 years of age.

But isn’t a student who has turned 17 or completed Year 10 post compulsory school age?

The concept of compulsory school age relates to the legal obligation parents have to ensure their children attend school or are registered for home schooling. It does not affect the legal right of any child beyond that age to be enrolled in their local school.

Even if a child has completed Year 10 of secondary education they remain of compulsory school age until they turn 17 unless they are participating on a full time basis in approved education or training or, provided the child is over 15, engaged in paid work or a combination of approved education or training and paid work.

Can a student be enrolled in two schools at the same time?

There is nothing in the Education Act which prevents a student from being enrolled at two schools at the same time. However, the department's Enrolment Policy indicates this should not occur. If it is necessary for a student who is enrolled in a government school to temporarily attend another government school, the Principal of the second school should, in accordance with the policy, utilise the provisions of the short term attendance procedures.

Is there such a thing as a temporary enrolment or a probationary enrolment?

There is nothing in the Education Act which gives a basis for either concept. A student will either be enrolled in a school or not.
Does that mean students cannot attend on a part time basis?

Generally students should attend school at all times the school is open. However, sometimes as a result of a risk assessment, it may be appropriate to have a student attend school on a part time basis with the view to gradually increasing the hours or days of attendance.

The Act requires parents of compulsory school aged children to ensure they attend school whenever it is open "for the child's instruction". This implies that a school could be open at different times for different children. It allows, for example, a part time attendance or a different attendance time for Kindergarten children.

A certificate of exemption from the legal requirement to enrol at or attend school can be granted by an approved delegate in approved circumstances. Principals should refer to the Exemption from School – Procedures for further information about this issue.

Is it necessary to re-enrol a student who transitions from year 10 to year 11 in the same school or from one campus of a college or school to another campus of the same college or school?

If the student remains at the same school, there is no need to re-enrol. Ordinarily, students moving from Year 10 to 11 would not be expected to re-enrol. In relation to senior schools or campuses which have a number of sites, the question of re-enrolment is dependent on whether each campus site is a separately established school under the Education Act. If separately established, it is necessary to re-enrol the student into the new campus. If the campuses are not separately established schools, it is up to the Principal to determine what steps, if any, need to be taken to facilitate the transition of the student from one site to another.

If a student is required to attend a suspension centre, does this mean the student has to enrol in that centre?

No. The student remains enrolled in the home school. Principals should refer to the department's Guidelines for the Establishment and Operation of Suspension Centres (found within the department's Guidelines for Resource Utilisation).

Do prospective students need to be immunised before their application for enrolment can be accepted?

No. It is not compulsory for parents to immunise their children. The Public Health Act 1991 specifically indicates that apart from exclusion during an outbreak of a disease, children should not to be subject to any detriment as a result of their immunisation status. Students who are not immunised may be excluded from the school during an outbreak of a vaccine preventable disease.

What documentation should be provided to prove a child's immunisation status?

Immunisation records are not required by high schools. Primary school parents should be asked to provide an immunisation history statement issued by the Australian Childhood Immunisation Register (ACIR). The parent can ring the ACIR on 1800 653 809 to request another History Statement be provided to them if one is lost or mislaid.

Primary schools record the immunisation status on ERN for each student. Schools are advised to retain the immunisation history statement or a photocopy of it. The copy of the immunisation history statement should be transferred with the student's records when they move to another primary school. They should also retain a copy of the history statement for two years after the student has left.

Where parents provide immunisation history from overseas they should be advised to consult a local doctor who can assess whether the child needs additional vaccines. The doctor will transfer the information to the ACIR.

What should I do if information provided about the student at enrolment indicates that he or she may have a health condition? ?
Planning needs to occur to determine the best way for the individual health support needs to be met in the context of the particular school.

The Principal should co-ordinate a plan to provide for the individual student’s health and safety in the school environment. As part of that process he or she should seek to develop an effective partnership with parents and staff so that arrangements for student health care support can be made.

Steps in arranging support for students with health care needs are outlined in the flow chart on the department’s student health website. Further information about:

- administration of prescribed medication can be found in legal issues bulletin 46 – Legal Issues concerning the administration of prescribed medications, health care procedures and medical emergencies in schools and TAFE NSW
- supporting students who need help with health issues, can be found on the Student Health section of the department’s public schools website.

What should I do if the student who is enrolling in my school has been diagnosed with anaphylaxis?

Principals are referred to the Anaphylaxis Guidelines for Schools (2nd edition 2006) and information about anaphylaxis on the Student Health section of the department’s public schools website.

Parents will need to provide information from their child's medical practitioner, including an ASCIA Anaphylaxis Action Plan. The plan must be signed by the student's doctor. The parents should also supply an adrenaline auto-injector for use at school. The ASCIA action plan for anaphylaxis is to be followed in the event that the student has an anaphylactic reaction at school.

An individual health care plan, including risk minimisation strategies, should be developed and implemented and specialist training from the NSW Anaphylaxis Training Program must be arranged for staff. If it is not possible to arrange for that training before enrolment commences principals must arrange for staff to undertake the ASCIA anaphylaxis e-training for schools. Further information about supporting students who need help with health issues, can be found on the Student Health section of the department’s public schools website.

Who is responsible for approving enrolment applications in a government school?

The Principal is responsible for approving all enrolment applications in his or her school. Various procedural aspects of the enrolment process can be delegated to other staff, such as collating relevant material, sighting birth certificates and confirming residential details. However parents and students should not be advised their applications have been successful until they have been approved by the Principal.

About Legal Services

Legal Services is here to support our government schools. Staff can contact Legal Services by email or phone.

Legal Services can only provide legal advice to departmental staff. It is not able to provide legal advice or assistance to parents, students or members of the public due to the potential for a conflict of interest.