

Guidelines on the Completion of Education under Special Circumstances, under Section 21B of the Education Act 1990

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1. General Principles

- 1.1. It is the duty of the State to ensure that every child receives an education of the highest quality and it is the duty of parents and caregivers to comply with the compulsory education requirements of the Education Act 1990.
- 1.2. A child between the age of 6 and 17 may leave school only after they have completed Year 10 of secondary education. One of the ways of completing Year 10 of secondary education is to complete education through a special circumstance approved by the Minister for Education and Training.
- 1.3. Completion of Year 10 of Secondary education is defined as:
 - completion of Year 10 through secondary school or home schooling; or
 - completion of a course of education provided by the TAFE NSW Commission and approved by the Minister for Education as the equivalent of Year 10 of secondary education in NSW
 - the completion, outside of NSW, of the equivalent of Year 10 of secondary education in this State.

Completion of Year 10 outside of these circumstances is defined as a 'special circumstance' for the purpose of these guidelines.

- 1.4. **Approval of Completion of Education under Special Circumstances** may be granted by a delegated officer (as identified in 2.1 below) subject to the guidelines that follow.

2. Delegation of authority to grant Approval of Completion of Education under Special Circumstances

- 2.1. Under Section 21B 5(d) of the *Education Act 1990*, the Minister may grant **Approval of Completion of Education under Special Circumstances**. This power is delegated, subject to these guidelines, to:
 - The Deputy Secretary (School Operations and Performance)
 - Executive Director (Learning and Wellbeing)
 - Executive Directors (Public Schools NSW).
- 2.2. TAFE NSW Institute Directors should approve any program that includes a TAFE delivery component.

- 2.3. In addition, the Secretary is delegated the authority to exercise the Minister's powers under Section 21B 5(d) without limitation.

3. Reasons for granting Approval of Completion of Education under Special Circumstances

- 3.1. The Minister's delegate may grant approval if he or she is satisfied that:
- a. the applicant has demonstrated that he or she could not complete Year 10 of secondary education by any of the means set out in section 1.3;
 - b. the program of education that has been undertaken by the young person, including the outcomes that have been achieved, amounts to an adequate basis for regarding the student's school education as complete in the special circumstances of the case.

4. Process prior to granting Approval of Completion of Education under Special Circumstances

- 4.1. It is not possible to specify all the potential cases for which approval to complete education in special circumstances may be warranted. Generally, given the range of options for completion of education that exists in the Act, it should be regarded as a rarely exercised power. It is important that any such decision takes into account the objects of the *Education Act 1990*, and in particular the duty of the State to ensure every child receives an education of the highest quality. It should also take into account the objects of the *Children and Young Persons (Care and Protection) Act 1997*, so as to ensure a child is not subject to educational neglect. Moreover, it is not possible to use this power to allow a child not to be educated. (If there are circumstances that warranted such a decision, that case should be dealt with as an "exemption" from the requirements of the Act under section 25).
- 4.2. Approval for special circumstance completion of secondary education is granted only when the relevant education, equivalent to the completion of Year 10 secondary education, is finished. Where practicable the student and his or her parents or caregivers should be made aware in advance of what the student needs to do for his or her education to be approved under 21B (5) (d).
- 4.3. Where a young person has undertaken and completed education in circumstances not otherwise covered by the Act, the following process will apply. The student will provide to the delegated officer:
- a statement of detailed evidence of each individual subject or course studied and completed and the result or grade achieved;
 - the original certificate of any educational qualification achieved as a result of this course of study; and

- a statement of record of attendance during the period of study.

4.4. An applicant is to be provided:

- information regarding how decisions are made about applications under 21B (5)(d) and the consequences that flow from those decisions; and
- an opportunity to prove to the delegate that the student has completed his or her education as a 'special circumstance' in accordance with section 21B (5)(d) of the *Education Act 1990*.

The delegate who makes the decision must be impartial and unbiased.

4.5. Applications for **Approval of Completion of Education under Special Circumstances** must be made in writing, with relevant documentary evidence provided.

5. Conditions attached to Approval of Completion of Education under Special Circumstances

- 5.1. The original of the approval of completion of education under special circumstances will be provided to the parents or caregivers of the student or to the student if he or she is living independently.
- 5.2. The delegate should retain a signed copy of the Approval of Completion of Education under Special Circumstances in the delegate's official records.

6. Completion of Education by completion of an apprenticeship or traineeship.

- 6.1. The Minister has granted approval under section 21B (5) (d) for completion of an apprenticeship or traineeship subject to the permission outlined below to be a special circumstance for the completion of education.
- 6.2. The following requirements must be met for permission to be granted to a student to undertake an apprenticeship or traineeship as the completion of their education:
 - a) The principal considers that, in all the circumstances, the student is a suitable candidate to complete his or her education through an apprenticeship or traineeship.
 - b) The student's parents give permission for this to occur.
 - c) The principal has sighted a full time apprenticeship or traineeship contract signed by the employer and a summary training plan authorised by the Registered Training Organisation.
 - d) The employer agrees to notify the Department of Education (through the principal) if the apprenticeship or traineeship is abandoned or cancelled before the student turns 17. If the student does not complete the

apprenticeship or traineeship, he or she will not have completed Year 10 and will be legally required to do so under another pathway of the Act (for example by returning to school or seeking enrolment in TAFE NSW).

- e) The apprenticeship or traineeship is subsequently approved by the Commissioner for Vocational Training, State Training Services as suitable for the young person and that the training contract attains a 'registered' status following the probationary period. (Where approval is granted by the principal and the Commissioner subsequently notifies the student of his or her decision not to approve of the contract following the probationary period, the approval, and the exemption from compulsory schooling, ceases from that point to operate, and the student's parents must take other steps to comply with their compulsory schooling obligations).

- 6.3. Where a student wishes to complete their education by undertaking an apprenticeship or traineeship, the student and his or her parent or caregiver should speak initially with the principal of the school at which the student is currently enrolled. At this meeting the reasons for undertaking the apprenticeship or traineeship should be discussed. The parent or caregiver and the student should be advised that should the training arrangement cease, the young person must still satisfy compulsory schooling requirements. Only if the principal is satisfied that the applicants understand the requirements and the conditions should he or she give permission for the process.
- 6.4. The Minister has delegated to secondary principals the power to grant a certificate of exemption from attending school under section 25 for the sole purpose of completing their education through undertaking an apprenticeship or traineeship. If the principal grants permission to the student to undertake the apprenticeship or traineeship, he or she should also grant a certificate of exemption from schooling subject to the completion of the contract of training.
- 6.5. In such cases, the secondary principal can approve the student's Application for Exemption from Enrolment at School, to continue education as a full time contracted apprentice or trainee. (Please note: Exemptions cannot be granted retrospectively).

See:

https://www.det.nsw.edu.au/policies/student_admin/attendance/sch_polpr oc/exempt_gui.pdf

- 6.6. Where a student has completed the apprenticeship or traineeship for which he or she has been given the permission required by 6.2 above, he or she will have completed year 10 of secondary education for the purpose of section 21B (5) of the Education Act.

COMPLETION OF EDUCATION IN SPECIAL CIRCUMSTANCES



Education

Application for Approval of Completion of Education under Special Circumstances under Section 21B of the Education Act 1990.

(Not for use with apprenticeships or traineeships)

STUDENT DETAILS

Family name: _____ Given name(s): _____

Age: _____ Date of birth: ____ (dd) / ____ (mm) / ____ (year)

Enrolment Registration Number (ERN) (if applicable): _____

Student's address: _____ Postcode: _____

School name: _____ School's telephone number: _____

REASON FOR APPLICATION FOR APPROVAL OF COMPLETION OF EDUCATION UNDER SPECIAL CIRCUMSTANCES

Please provide the reasons why approval is sought. This should include:

- a detailed account of the education that has been completed;
- an explanation outlining why the student's education should be regarded as equal to completion of school education;
- an explanation of the special circumstances of the case that would justify the approval.

Applicants will need to attach copies of all relevant documents to this application to enable the Minister's delegate to be satisfied that the student has engaged with education to an extent and at an appropriate level to enable the student's school education to be regarded as complete.

Applicants should note this is not an exemption from the requirements of compulsory school education. If a formal exemption is being sought, go to:

https://www.det.nsw.edu.au/policies/student_admin/attendance/sch_polproc/exempt_gui.pdf

NOTE: Please attach all relevant documentary evidence

PARENT OR CAREGIVER DETAILS

Family name: _____ Given name(s) _____

Address: _____ Postcode: _____

Telephone number: _____ Relationship to student: _____

As the parent or caregiver of the above mentioned student, I hereby apply for my child's education to be approved as complete, under section 21B (5) (d) of the *Education Act 1990*.

Signature of applicant/s: _____

Date: ____ / ____ / ____

COMPLETION OF EDUCATION IN SPECIAL CIRCUMSTANCES



Education

**Approval to Complete Education under Special Circumstances under Section 21B of the Education Act 1990.
(Not for use with apprenticeships or traineeships)**

The student whose details appear below has been granted approval for completion of education under section 21B (5) (d) of the *Education Act 1990*

STUDENT DETAILS

Family name: _____ Given name(s): _____

Date of birth: ____ (dd) / ____ (mm) / ____ (year)

Address: _____

_____ Postcode: _____

School name: _____ School's telephone number: _____

Reason for the approval:

Signature of parent/caregiver: _____ Date: ____ / ____ / ____

Name and Position of Delegate: _____

Signature of delegate: _____ Date: ____ / ____ / ____

This approval has been issued without alteration