

NSW Registration Requirements Update

Important briefing paper for Principals, Bursars, Business Managers and Governors of individual and systemic non-government schools on changes announced December 2016

The information in this briefing paper is current as at March 2017. The legal and regulatory obligations in this area are in a constant state of change. Please visit www.complispace.com.au to ensure that you have the most up to date version of this briefing paper.

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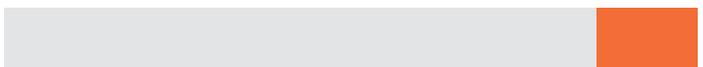


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1. Executive Summary

- ✓ Following the commencement of the *Education and Teaching Legislation Amendment Act 2016* (NSW) the Board of Studies, Teaching and Educational Standards NSW (BOSTES) is now known as the NSW Education Standards Authority (NESA).
- ✓ Updates to the NSW Registered and Accredited Individual Non-government Schools Manual, and the NSW Registered and Accredited System Non-government Schools Manual (referred in this paper as the Manuals) were released on 19 December 2016.
- ✓ Changes to the Manuals include a "fit and proper person" requirement for responsible persons and a new financial viability requirement.
- ✓ The updated Manuals are amended on a transitional basis until the NESA Board meets in 2017.
- ✓ Updates to the *Guidelines for the Regulation of Teacher Accreditation Authorities for Non-government Schools and Early Childhood Education Centres* (the TAA Guidelines) were released on 23 December 2016.
- ✓ The key change to the TAA Guidelines is the removal of a TAA's power to suspend or revoke a teacher's accreditation. Now NESA is the only entity with this power.
- ✓ The updated TAA Guidelines are amended on a transitional basis until Board of the Authority meets in 2017.
- ✓ The changes to the Manuals and the TAA Guidelines will require all school governors, principals and executives to undertake a detailed examination of the changes to the Manuals and what they mean for their registration policies and procedures.

Refer to this previous School Governance article for more information: [Changes to NSW Registration Manuals: fit and proper and financial viability criteria.](#)

2. Background

The *Education and Teaching Legislation Amendment Bill 2016* (NSW) passed The NSW Parliament in October 2016, which resulted in changes to various pieces of NSW legislation. Since then, changes have been made to NESA (name change and organisational restructure) and to the registration requirements for non-government schools. These changes are reflected in the revised Manuals and TAA Guidelines, both released in December 2016.

While NESA has stated that the Manuals and TAA Guidelines are amended on a "transitional basis to encompass the period on and from 1 January 2017" until the NESA Board meets in 2017 and either "confirms the amendments or requires changes to be made," non-government schools in NSW are required to comply with the revised Manuals and TAA Guidelines on and from 1 January 2017. Helpfully, NESA provided [marked-up versions](#) of the changes between the 2016 Manuals and TAA Guidelines and 2017 versions.

The purpose of this briefing paper is to explain these changes and the actions schools should be taking now to ensure compliance.

3. Key Changes: The Manuals

The table below summarises the key updates to the 2017 Manuals.

2017 Manual Reference	New requirement	What schools must do
<p>Quality of Teaching and Student Learning</p> <p>(Section 3 Individual Non-government Schools Manual, section 5 System Non-government Schools Manual)</p>	<p>All levels of schooling (primary and secondary) must now demonstrate evidence "relating to the quality of teaching and student learning".</p>	<p>Schools must implement policies and procedures in order to ensure that they have documentary evidence of:</p> <ul style="list-style-type: none"> ✓ the standard of teaching of courses of study provided at the school, including evidence of school-wide consistent practice in areas identified by the Australian Professional Standards for Teachers; ✓ student engagement in learning at the school; and ✓ any matters identified in a risk assessment¹ conducted by the Authority in relation to the school. <p>The Manuals state that schools must document their expectations for a standard of teaching, as well as the strategies the school has implemented to improve its standard of teaching.</p> <p>In order to evidence student engagement in learning, schools should also document their processes for assessing and</p>
<p>Responsible persons must be fit and proper persons or bodies</p> <p>(Section 3.9.1 Individual Non-government Schools Manual, section 5.9.1 System Non-government Schools Manual)</p>	<p>A responsible person must be a "fit and proper person".</p> <p>Previously, responsible persons or bodies were required to be of "good character".</p>	<p>Schools must implement policies and procedures in order to ensure that:</p> <ul style="list-style-type: none"> ✓ all responsible persons sign a statutory declaration² prior to commencing at the school and at least on an annual basis while remaining a responsible person at the school; and ✓ information is retained to demonstrate that the school's 'responsible persons' and governing

¹ NESA may conduct a risk assessment on a school to determine the school's compliance with the registration requirements. The Manuals provide more information on risk assessments.

² A statutory declaration is a written statement that a person signs and declares to be true and correct before an authorised witness. The declaration is binding and can be used against a person in legal proceedings.

2017 Manual Reference	New requirement	What schools must do
		body have experience and expertise to administer a school.
<p>Financial Viability (Section 3.9.4 Individual Non-government Schools Manual, section 5.9.4 System Non-government Schools Manual)</p>	<p>The addition of the financial viability section introduces new obligations.</p> <p>Previously, the Manuals only required that schools appropriately managed topics related to financial solvency such as related party transactions and having their annual financial statements audited and certified by an external independent auditor.</p>	<p>Schools must implement policies and procedures in order to ensure that:</p> <ul style="list-style-type: none"> ✓ the school's financial viability is assessed at regular intervals; ✓ the school retains audited and certified financial statements for a minimum period of seven years; ✓ the school obtains a certification of financial viability in "the form prescribed by NESAS³ and keep it for a minimum period of seven years; and ✓ schools notify NESAS if a contract or arrangement with the school's external auditor is terminated, or if the affairs of the proprietor are under any form of control. <p>The Manuals further specify the types of documentation schools should have available when having their financial viability assessed by a NESAS Inspector. Schools should ensure that these documents have been properly maintained and are available for this purpose.</p>
<p>Various sections of the Manuals</p>	<p>Changing references from 'the BOSTES' to 'NESAS' and other minor edits</p>	<p>Schools should ensure that their policies and procedures reflect the new terminology and naming conventions of the updated Manuals.</p>

³ NESAS has stated that information about the changes will be published early in 2017, particularly in relation to certification of financial viability.

4. Key Changes: The TAA Guidelines

The table below summarises the key updates to the 2017 TAA Guidelines.

2017 TAA Guidelines	New requirement	What schools must do
<p>Section 2.4 Responsibilities of Teacher Accreditation Authorities (TAA)</p>	<p>Under legislative changes to the Teacher Accreditation Act 2004 (NSW) NESAs are now the only body authorised to suspend or revoke a teacher's accreditation. A TAA no longer has powers of suspension or revocation.</p> <p>The effect of this change is that a TAA is required to notify NESAs if it becomes aware of any information that is or may be relevant to any of the grounds for which a teacher's accreditation may be suspended or revoked by NESAs.</p>	<p>Schools must implement policies and procedures in order to ensure that:</p> <ul style="list-style-type: none"> ✓ the TAA notifies NESAs when grounds exist for recommending that the accreditation of a teacher be suspended or revoked; ✓ a teacher's employer is notified when grounds exist for recommending that the accreditation of a teacher be suspended or revoked within twenty-one (21) days if making the notification; and ✓ teachers are informed of their right under the <i>Teacher Accreditation Act 2004</i> (NSW) to an administrative review by the NSW Civil and Administrative Tribunal in relation to the refusal or failure by the TAA to either accredit a teacher, or recommend to NESAs to revoke/suspend a teacher's accreditation. Evidence of this communication must also be retained. <p>In order to reflect this new delegation of powers between the TAA and NESAs, schools must also amend their suite of TAA policies to ensure that no reference is made to the TAA's former power of suspension or revocation.</p>
<p>Section 3.1 Types of TAAs Eligible To Be Approved</p>	<p>A new role has been created called the "prime authorised delegate". This is the role/position delegated by the TAA to be the TAA's primary authority to exercise its functions, including making decisions regarding the routine operation of the TAA and accreditation of teachers.</p>	<p>Policies and procedures should be updated to reflect the creation of this new role.</p>

5. What Should Schools Do?

Although the updated Manuals and TAA Guidelines are classified as "transitional", schools that are undergoing registration renewal in 2017 should understand and implement policies and procedures to comply with these amendments. This is because until NESAs say otherwise, they appear to be in effect.

6. What Can CompliSpace Do To Help?

CompliSpace combines governance, risk, compliance and policy management expertise with technology solutions to deliver sustainable governance solutions to non-government schools in every state and territory in Australia.

A team of lawyers and industry experts actively monitor changes to relevant laws and registration standards to deliver a full suite of online policies, procedures and governance programs that enable schools to continuously comply with their legal and regulatory obligations. CompliSpace's suite of content modules, training programs and software platforms are specifically tailored for non-government schools by jurisdiction. They include:

- ✓ ISO 31000 Risk Management Program;
- ✓ AS/ISO 19600 Compliance Program;
- ✓ Comprehensive School Registration Programs;
- ✓ ISO 10002 Complaints Handling Program;
- ✓ AS 5050 Business Continuity Program;
- ✓ AS 8004 Fraud and Corruption Control Program;
- ✓ AS 8001 Whistleblower Program;
- ✓ AS 4804 and AS 4801 Workplace Safety Program;
- ✓ A Child Protection Program;
- ✓ A Human Resources Program (tailored to relevant State and Territory laws, and enterprise agreements);
- ✓ A Privacy Program;
- ✓ A Board Governance Program; and
- ✓ Assurance software to manage risks, tasks and incidents.

CompliSpace is also a provider approved by NESAs for courses relating to proper governance of non-government schools. Further information on the courses we provide can be found [here](#).

If you would like to know more about how CompliSpace can assist you with your governance, risk and compliance, including registration, contact us on:

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