



# New South Wales Registration and Regulatory Requirements Update

Important briefing paper for Principals, Bursars, Business Managers and Board Members of individual and systemic non-government schools

*The information in this briefing paper is current as at September 2018*

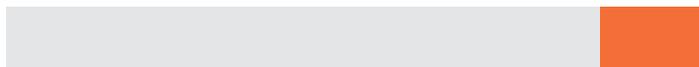
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# 1. Executive Summary

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- ✓ Updates to the NSW Registered and Accredited Individual Non-Government Schools Manual and the NSW Registered and Accredited System Non-Government Schools Manual (referred to in this paper as Manuals) were released on 19 December 2016, following the commencement of the Education and Teaching Legislation Amendment Act 2016 (NSW). Various amendments to the Manuals have taken place over the last 18 months, including in relation to financial viability, quality of student learning and notification obligations.
- ✓ On 27 April 2018, NESA announced further changes to the Guidelines for the Regulation of Teacher Accreditation Authorities for Non-Government Schools and Early Childhood Education Centres (TAA Guidelines), reflecting revised NESA Teacher Accreditation Policies which commenced on 1 January 2018. These changes included new requirements for teachers gaining and maintaining their accreditation at Proficient Teacher level.
- ✓ The changes to the Manuals and other regulatory updates will require all school governors, principals and executives to undertake a detailed examination of their internal policies and procedures to determine what steps are needed to ensure compliance.

## 2. Background

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Due to ongoing legal and regulatory change, the compliance burden on NSW schools continues to expand, with no sign of stopping or slowing down.

The Education and Teaching Legislation Amendment Act 2016 (NSW) passed the NSW Parliament in October 2016, which resulted in changes to various pieces of NSW legislation. This amendment facilitated a number of changes to NESA (including a name change from BOSTES and an organisational restructure) and to the registration requirements for non-government schools. These changes were reflected in revised Manuals and TAA Guidelines, both released in December 2016 and which took effect from 1 January 2017.

Over the last 18 months, NESA has continued to publish updates to the Manuals and other school regulatory resources.

The purpose of this briefing paper is to explain these changes and the actions schools should be taking for compliance now as they head into 2019.

## 3. Updates to the Registration Manuals

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### Financial Viability

The Manuals were updated in March 2017 to provide further guidance for schools in relation to their financial viability obligations, as well as to identify the evidence to be provided when making an application for initial or renewed registration.

While the amendments took effect with the publication of NESA's Official Notice on 29 March, they later received official approval on 11 August. Supplementary materials for this update are available on the [NESA registration website](#) and include:

- ✓ a NESA *Financial Viability Framework*
- ✓ templates for a certification or warrant of a school's financial viability by a NESA-approved body/person
- ✓ an overview of NESA's risk assessment approach for financial viability.

### Quality of Student Learning

On 14 July 2017, further changes to the Manuals were published, again focusing on clarifying the new obligations for schools introduced in December 2016. These amendments related to the regulatory focus on the quality of learning for all NSW schools and schooling systems. Official approval for these updates was given on 20 October 2017.

The amended Manuals relate to the governance area of the quality of student learning (previously called "Quality of teaching and student learning"), which includes the standard of teaching and student engagement in learning at

schools, and specifies the evidence of compliance that schools must maintain. They were stated to be transitional and subject to further refinement before the end of 2017.

## Compulsory Notifications

In its final Official Notice for 2017, NESA published another change to the Manuals on 22 December. The amendments were made to clarify the newly-introduced quality of student learning provisions after they received Ministerial approval.

However, additional amendments were made to other sections of the Manuals to expand on administrative processes that schools must follow in relation to registration. In particular, significant amendments were made to when, and how, schools must make notifications to NESA. A school must now have additional documented notification procedures for when certain changes occur in relation to the school.

## Key Changes to the Manuals

Manual Reference	New Requirement	What Schools Must Do
<p><b>Financial Viability</b></p> <ul style="list-style-type: none"> <li>✓ <b>Section 3.9.4 Individual Non-government Schools Manual</b></li> <li>✓ <b>Section 5.9.4 Systemic Non-government Schools Manual</b></li> </ul>	<p>Schools must now maintain one of three prescribed forms of evidence to demonstrate their current financial viability.</p> <p>During the assessment of an application for registration, an Inspector may request additional information if concerns about compliance are identified.</p>	<p>Schools must maintain evidence in one of the following prescribed forms to demonstrate the current financial viability of the school:</p> <ul style="list-style-type: none"> <li>✓ certification from the principal of the school as required in the online application form for renewal of registration</li> <li>✓ Certification of Financial Viability from a NESA-approved body or person assessed against the NESA Financial Viability Framework</li> <li>✓ a Financial Viability Warrant from a NESA-approved body or person providing assurance of financial viability.</li> </ul> <p>Schools must also have policies and procedures for retaining a copy of the financial viability certification or warrant for a minimum period of seven years before archiving or disposing.</p>
<p><b>Quality of student learning</b></p> <ul style="list-style-type: none"> <li>✓ <b>Section 3 Individual Non-government Schools Manual</b></li> <li>✓ <b>Section 5 Systemic Non-government Schools Manual</b></li> </ul>	<p>References in the Manuals to the quality of teaching and student learning now refer to the "standard of teaching" and the "quality of student learning" to reflect the fact that these are separate compliance requirements.</p> <p>NESA will assess the standard of teaching of courses of study provided at a school in relation to school-wide policies and consistent practices in areas identified by the Australian Professional Standards for Teachers (Teaching Standards).</p>	<p>Schools must maintain specific evidence that is directly related to the standard of teaching and student engagement in learning that relates to the requirements for:</p> <ul style="list-style-type: none"> <li>✓ Teaching Staff (Section 3.2.1/5.2.1)</li> <li>✓ Curriculum (Section 3.3/5.3 and, for accredited schools, Section 5/7)</li> <li>✓ Facilities (Section 3.5/5.5)</li> <li>✓ Student Welfare (Section 3.6.2/5.6.2).</li> </ul> <p>They must also document how the Teaching Standards and other policies of NESA are being implemented, including:</p> <ul style="list-style-type: none"> <li>✓ processes for supporting teachers in attaining and maintaining accreditation</li> <li>✓ processes for improving the collective standard of teaching at the school.</li> </ul>

<p><b>Compulsory Notifications</b></p> <ul style="list-style-type: none"> <li>✓ <b>Section 3.9.5 Individual Non-government Schools Manual</b></li> <li>✓ <b>Section 5.9.5 Systemic Non-government Schools Manual</b></li> </ul>	<p>Schools are required to provide notifications to the NESA about additional matters and must do so in the form specified in the Manuals.</p>	<p>Schools must document their processes for notifying NESA when certain changes occur in relation to the management and operation of the school, and to the school’s curriculum, including:</p> <ul style="list-style-type: none"> <li>✓ change to the school’s postal address or other contact details</li> <li>✓ change to the name, contact name or other contact details for a registered campus</li> <li>✓ change to the contact details for the school’s principal</li> <li>✓ change to the name or contact details of the school’s proprietor</li> <li>✓ where the school intends to increase or decrease the years of schooling it delivers.</li> </ul>
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## 4. Teacher Accreditation Updates

It is a requirement of registration for a school to document its arrangements for having a TAA (person responsible for accrediting teachers) that has been approved under the TAA Guidelines. Schools and their TAAs are expected to demonstrate immediate compliance with the updated TAA Guidelines.

### 2017 Teacher Accreditation Updates

An update to the TAA Guidelines took effect in January 2017, which reflected legislative changes to the Teacher Accreditation Act 2004 (NSW) (TA Act) which made NESA the only body authorised to suspend or revoke a teacher’s accreditation. The update included new requirements for TAAs to notify NESA if certain events occur, and also introduced the concept of the “prime authorised delegate”, with delegated authority to act on a TAA’s behalf.

While there were no further changes to the TAA Guidelines over the course of 2017, NESA prepared and approved extensive procedural changes to the processes for gaining and maintaining teacher accreditation. These processes were reflected in the following Teacher Accreditation Policies which took effect from 1 January 2018:

- [Proficient Teacher Accreditation Policy](#)
- [Maintenance of Teacher Accreditation Policy](#).

Updated wording in these Teacher Accreditation Policies states that they form part of the professional teaching standards approved under the TA Act and constitute NESA rules. This indicates that schools need to demonstrate compliance with them as part of their school-wide practices implementing the Teaching Standards and as part of their TAA documentation.

### TAA Guidelines Revision

On 27 April 2018, NESA announced further changes to the TAA Guidelines to reflect the revised Teacher Accreditation Policies. As these revised policies have been significantly adjusted from their previous iteration, this has precipitated substantial changes to the TAA Guidelines, mostly concerning the requirements for approval of TAAs for Proficient Teacher level.

NESA has provided links to draft TAA Guidelines with tracked changes for February and March but has not released tracked changes comparing the previous version of the TAA Guidelines with the April updates. This effectively means that all schools and their TAAs are required to read the updated TAA Guidelines in their entirety, and manually compare them against their internal policies and procedures, to determine gaps in their compliance.

## Key Changes to the TAA Guidelines

Guidelines Change	New Requirement	What Schools Must Do
<p><b>Broader Professional Teaching Standards</b></p> <p><b>1 Introduction + various references</b></p>	<p>Accreditation means that a teacher has met the <i>professional teaching standards</i> required by the TA Act, including the Teaching Standards at one of the key career stages. Previously, accreditation only meant that a teacher needed to comply with the Teaching Standards.</p> <p>Evidence of compliance requires a TAA to demonstrate it meets its obligations under NESAs rules <i>and policies</i> rather than just NESAs rules.</p>	<p>Schools must maintain evidence that they comply with all NESAs policies relating to teacher accreditation.</p>
<p><b>Stricter Requirements for Authorised Persons</b></p> <p><b>4.1 Structure and governance of the TAA</b></p>	<p>A TAA may delegate all or part of its functions to one or more authorised delegates. These authorised delegates need to be either an accredited teacher or eligible to be accredited.</p> <p>It is no longer an option for an authorised delegate to be currently employed as a teacher (but not be an accredited teacher) in a non-government school or early childhood education centre.</p>	<p>Schools must ensure that any authorised delegate or person involved in making a teacher accreditation decision must currently be, or eligible to be, an accredited teacher.</p>
<p><b>Simplified Evidence of Compliance</b></p> <p><b>4.2.3 Policies and procedures for reporting and decision-making</b></p> <p><b>4.6 Provisions for sharing information with employers and other approved TAAs</b></p>	<p>Significant adjustments to the evidence of compliance have occurred for the majority of the requirements. These changes include a terminology change from "refusal or failure to accredit" to "not accredit", and removing references to obligations being "specific to the TAA's authority" in certain instances.</p> <p>Most of the evidence of compliance for a TAA sharing information with other TAAs and teacher employers has been removed. TAAs that are <i>not</i> the proprietor or employer of teachers now also need to have formal processes for communication with other employers. Previously this was an optional process for TAAs that <i>are</i> the proprietor and employer.</p>	<p>Schools must ensure they maintain specific evidence of compliance that directly relates to the TAA Guidelines as part of their records management procedures.</p>

<p><b>Shifting Notification Obligations</b></p> <p><b>4.2.3 Policies and procedures for reporting and decision making</b></p>	<p>Wording adjustments have occurred due to the Proficient Teacher Accreditation Policy. These have attempted to clarify when a TAA needs to notify a teacher, and NESAs, about an accreditation decision.</p> <p>It is a requirement for a TAA to have in place and implement policies and procedures in relation to deciding to not accredit a teacher, including that if such a decision is made, the written notice of the decision needs to include a statement that the teacher concerned can request an internal review. Previously, this written notice was given when the teacher was informed of the TAA's <i>intention</i> to not accredit.</p>	<p>Schools must comprehensively document their processes for notifying teachers and NESAs when decisions are made in relation to teacher accreditation.</p>
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## 5. What Should Schools be Doing?

Schools should review the Manuals and the TAA Guidelines in their entirety, paying particular attention to the marked-up versions of the Manuals. They should also consult the new Teacher Accreditation Policies.

Schools should then conduct an internal audit of current policies, procedures and work practices and undertake a gap analysis against the variations to their obligations set out in the Manuals, the Teacher Accreditation Policies and the TAA Guidelines. The outcome of this gap analysis will determine the adjustments needed to ensure compliance.

With the rapid pace of registration updates and regulatory reform, it is highly possible that many schools will still be non-compliant with the last round of amendments to the Manuals, meaning significant work may be necessary to catch up to NESAs' requirements.

## 6. How CompliSpace Can Help

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At CompliSpace we combine 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. Our team of lawyers and industry experts actively monitor changes to relevant laws and registration standards and deliver a full suite of online policies, procedures and governance programs that enable schools to continuously comply with their legal and regulatory obligations.

CompliSpace has developed a detailed Registration Compliance Module that systematically addresses each of the requirements in the Manuals, and the TAA Guidelines.

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](#).

CompliSpace works with schools to tailor compliance and risk management systems to a school's individual needs and characteristics, ensuring meaningful compliance with their legal and regulatory obligations.

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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