



NSW 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 January 2018.

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1. Executive Summary

- ✓ 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 the Manuals) were released on 19 December 2016, following the commencement of the Education and Teaching Legislation Amendment Act 2016 (NSW).
- ✓ On 29 March 2017, the Manuals were updated again to provide further guidance for schools in relation to their new financial viability obligations. Schools must maintain evidence in a prescribed form to demonstrate their current financial viability.
- ✓ On 14 July 2017, further updates were made in relation to quality of student learning. Schools will now be assessed in relation to evidence demonstrating school-wide policies and consistent practices in areas identified by the Australian Professional Standards for Teachers.
- ✓ A new Maintenance of Teacher Accreditation Policy was announced on 31 August 2017, commencing 1 January 2018, which includes new requirements for teachers maintaining their accreditation at Proficient Teacher level.
- ✓ On 17 November 2017, the NSW Education Standards Authority (NESA) announced amendments to the Guidelines for Approved NSW School Providers Delivering Courses to Overseas Students. These amendments reflect the new National Code of Practice for Providers of Education and Training to Overseas Students 2018, released on 13 September 2017.
- ✓ On 22 December 2017, another update to the Manuals was published. This update clarified quality of student learning requirements and expanded upon schools' NESA notification obligations.
- ✓ 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

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 Bill 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 the NESA (name change and 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 12 months, the NESA has continued to publish updates to the Manuals and other school regulatory resources, some of which schools have to comply with immediately, and others taking effect at a later date.

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 2018.

3. Updates to the Registration Manuals

March Update: 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 the 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.

July Update: 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 which schools must maintain. They were stated to be transitional and subject to further refinement before the end of 2017.

December Update: Compulsory Notifications

In its final Official Notice for 2017, the 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 upon administrative processes which schools must follow in relation to registration. In particular, significant amendments were made to when, and how, schools must make notifications to the NESA. A school must now have additional documented notification procedures for when certain changes occur to the school.

Key Changes to the Manuals

Manual Reference	New Requirement	What Schools Must Do
Financial Viability <ul style="list-style-type: none"> ✓ Section 3.9.4 Individual Non-government Schools Manual ✓ Section 5.9.4 Systemic Non-government Schools Manual 	Schools must now maintain one of three prescribed forms of evidence to demonstrate their current financial viability. During the assessment of an application for registration, an Inspector may request additional information if concerns about compliance are identified.	Schools must maintain evidence in one of the following prescribed forms to demonstrate the current financial viability of the school: <ul style="list-style-type: none"> ✓ certification from the principal of the school as required in the online application form for renewal of registration ✓ Certification of Financial Viability from a NESA-approved body or person assessed against the NESA Financial Viability Framework ✓ a Financial Viability Warrant from a NESA-approved body or person providing assurance of financial viability. Schools must also have policies and procedures for retaining a copy of the financial viability certification or warrant for a minimum period of seven (7) years before archiving or disposing.
Quality of student learning <ul style="list-style-type: none"> ✓ Section 3 Individual Non-government Schools Manual ✓ Section 5 	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. The NESA will assess the	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: <ul style="list-style-type: none"> ✓ Teaching Staff (Section 3.2.1/5.2.1) ✓ Curriculum (Section 3.3/5.3 and, for accredited schools, Section 5/7) ✓ Facilities (Section 3.5/5.5) ✓ Student Welfare (Section 3.6.2/5.6.2).

Systemic Non-government Schools Manual	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).	They must also document how the Teaching Standards and other policies of the NESAs are being implemented, including: <ul style="list-style-type: none"> ✓ processes for supporting teachers in attaining and maintaining accreditation ✓ processes for improving the collective standard of teaching at the school.
Compulsory Notifications <ul style="list-style-type: none"> ✓ Section 3.9.5 Individual Non-government Schools Manual ✓ Section 5.9.5 Systemic Non-government Schools Manual 	Schools are required to provide notifications to the NESAs about additional matters, and must do so in the form specified in the Manuals.	Schools must document their processes for notifying the NESAs when certain changes occur in the management and operation of the school, and to the school's curriculum, including: <ul style="list-style-type: none"> ✓ change to the school's postal address or other contact details ✓ change to the name, contact name or other contact details for a registered campus ✓ change to the contact details for the school's Principal ✓ change to the name or contact details of the school's proprietor ✓ where the school intends to increase or decrease the Years of schooling it delivers.

4. Maintenance of Teacher Accreditation

Since 1 January 2018, new requirements apply to all teachers maintaining their accreditation through the commencement of a new Maintenance of Teacher Accreditation Policy (Policy). The requirements apply to teachers whose maintenance period ends on or after 1 January 2018.

The changes to the Policy reflect feedback from accredited teachers and education stakeholders, and are intended to streamline accreditation renewal. Teachers at Proficient Teacher level must now submit a declaration, and not a report, to maintain their accreditation.

Wording in the Policy states that it "forms part of the professional teaching standards...and constitutes NESAs rules". This suggests that schools need to demonstrate compliance with this Policy as part of their school-wide policies and consistent practices implementing the Teaching Standards.

The current (2017) Maintenance of Accreditation at Proficient Teacher Policy and Maintenance of Accreditation Highly Accomplished and Lead Teacher Policy both apply to teachers whose maintenance of accreditation period ended before 31 December 2017.

Transitional arrangements apply to teachers whose maintenance is due between 1 January 2018 and the end of Term 1, 2018 (13 April 2018). These teachers have the option to finalise their accreditation either:

- ✓ early by 1 December 2017, according to current requirements; or
- ✓ any time from 1 January 2018 to 13 April 2018, according to new requirements.

5. Overseas Students Amendments

Over the last 12 months or so, the National Code of Practice for Providers of Education and Training to Overseas Students (National Code) has been in a constant state of flux, due to consultation processes, the repeal of the National Code 2007 and the introduction of the interim National Code 2017.

On 13 September 2017, the National Code 2018 was released. The National Code 2018 took effect on 1 January 2018

with no transition period for compliance. On 17 November 2017, NESAs responded to this development by announcing that the Guidelines for Approved NSW School Providers Delivering Courses to Overseas Students (Guidelines) have been amended to reflect the new National Code. Implementation of the amended Guidelines will commence on 1 January 2018.

The changes to the Guidelines include:

- ✓ restructuring and streamlining of Section 3 - Requirements for approved school providers
- ✓ updating the Evidence of compliance for each requirement in Section 3 in line with the revised National Code
- ✓ minor administrative amendments to provide clarity and reflect updated agency names.

Schools who are registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) need to be aware of the requirements of the National Code 2018 and review their policies and procedures to ensure compliance. CompliSpace is developing a comprehensive and practical Overseas Students Program for schools around Australia that systematically addresses each of the requirements of the National Code whilst taking into account jurisdictional legal variables such as the Guidelines.

6. What Should Schools be Doing?

Schools should review the Manuals in their entirety, paying particular attention to the marked-up versions of the Manuals. They should consult the new Policy, and the updated Guidelines if they are registered on CRICOS to provide education to overseas students.

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 Policy and the 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 the NESAs.

7. How CompliSpace can Help

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.

For schools with overseas students, our Overseas Students Program will also provide a framework of required policies, procedures, processes and additional information for the delivery of a safe, healthy and productive environment for overseas students. The Overseas Students Program will be available from mid 2018.

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 and overseas students, contact us on:

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