



WA Registration 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 May 2018.

CompliSpace Pty Ltd 1300 132 090

www.complispace.com.au

www.schoolgovernance.net.au

ACT | NSW | NT | QLD | SA | TAS | VIC | WA

Published by:

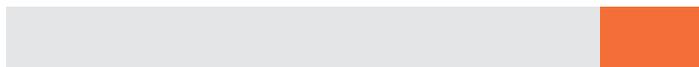


Table of Contents

1. Executive Summary	3
2. Background	3
3. Structure of the Standards and the Guide.....	4
Key Changes to the Standards	4
4. Major Standard Changes	7
5. What Should Schools be Doing?	11
6. How CompliSpace can Help	11

1. Executive Summary

- ✓ In January 2018, the West Australian Minister for Education released the new 'Standards for Non-Government Schools' ([the 2018 Standards](#)) that will take effect from 1 July 2018.
- ✓ There are now 17 Standards, rather than the previous 14, and there has been significant revision to the Standards for Staff (Standard 4) and Child Protection (Standard 12).
- ✓ In April 2018, the Department of Education, Western Australia (DET) published the updated 'Guide to Registration Standards and Other Requirements for Non-Government Schools' ([the 2018 Guide](#)).
- ✓ The 2018 Guide has slightly increased in length (from 79 pages to 82 pages) and provides much more detailed guidance on the Director General of Education's (Director General) considerations and expectations.
- ✓ The 2018 Guide has also removed all references to sections on 'Relevance to other Standards and Requirements' preferring to include these references within each Standard instead.
- ✓ All non-government schools (including Catholic system schools), not just those due for renewal of registration in 2018, need to be compliant with the requirements of the 2018 Guide by **1 July 2018**.
- ✓ The 2018 Standards include three new Standards for Minimum Age of Enrolment (Standard 15), Delivery of the Curriculum (Standard 16) and Numbers of Children Enrolled (Standard 17).
- ✓ New Standard 15 reflects the requirements of Sections 9-11 of the School Education Act 1999 (WA).
- ✓ New Standard 16 focuses on restriction on the delivery of online learning to students who are geographically isolated (a new definition provided in the definitions section).
- ✓ New Standard 17 relates only to minimum numbers of students in a CARE school.
- ✓ In addition to the new Standards, there are also significant changes to Ownership, Management or Control of a Governing Body (Chapter 1) and Fit and Proper Membership (Chapter 3) including performance management of the principal and a new definition of "Fit and Proper" which includes description of conflicts of interest and statutory declaration requirements for school board members.
- ✓ There have also been significant changes to Staff (Standard 4) including responsibility for Working With Children Checks (WWCC) for staff and volunteers, Staff Code of Conduct and staff professional development inclusions.
- ✓ As a result of the changes to Standard 4, Child Abuse Prevention (Standard 12) has also been updated to include Staff and Student Codes of Conduct, requirements for staff to comply with their mandatory reporting and grooming obligations and reference to a new peak body framework required for policies and procedures relating to child abuse – [the WA Commissioner Child Safe Organisations Framework](#).

Refer to our previous School Governance article: [WA Registration Guidelines Update: Focus on child protection, governance and staff for more information](#).

2. Background

Section 159(1) of the School Education Act 1999 (WA) (the Act) prescribes that the Minister for Education may determine the Standards. The 2018 Guide, provided by the DET to replace the 2017 Guide, then provides details for what a school needs to do in order to comply with the 2018 Standards.

Additionally, newly inserted Section 131A of the School Education Regulations 2000 (WA) (the Regulations) responds to Section 159(1)(n) of the Act by stating the Minister for Education may also determine other matters about which Standards may be determined including:

- ✓ the management of student’s behaviour
- ✓ the minimum age children must reach to be enrolled at schools
- ✓ the delivery of the curriculum or curriculums of schools
- ✓ the number of children enrolled in schools.

The purpose of this briefing paper is to explain these changes and the actions schools should be taking for compliance now as they move towards the 1 July 2018 effective date.

3. Structure of the Standards and the Guide

The 2018 Guide, like the 2017 Guide, is still structured into 12 distinct Chapters. The 17 Standards introduced in line with the Act and the Regulations are all described in detail in Chapter 4 of the 2018 Guide. More details about the specific changes to each Chapter and Standard are included in the table below.

Where relevant, guidance has been provided by the Director General via ‘Director General Considerations’ (the Considerations) about the sorts of issues the Director General will take into account when assessing compliance with the requirements under the Act (these are authorised through Section 160(1) of the Act).

The Considerations are covered in Chapters 1 to 3 and Chapters 5 to 8 of the 2018 Guidelines. In each Chapter, there is also ‘Supporting Evidence’ to assist readers understand the evidence which should be presented to the Director General to demonstrate a school’s compliance with a standard requirement.

Some Standards include “Explanatory Notes” when required to assist users to understand the nature of the evidence which may be requested to demonstrate a school’s compliance with, or observance of, a particular standard or requirement.

The 2018 Standards and the 2018 Guide have been developed in consultation with the Association of Independent Schools of Western Australia and Catholic Education Western Australia.

Key Changes to the Standards

Standard Reference	New requirements	What schools should do
Definitions within the Guide	Ten new definitions and terms included. Five terms amended to provide more detail. Removal of “Staff Code of Conduct” which has now been incorporated into Standard 12: Child Abuse and Standard 4: Staff.	Schools must be familiar with the new definitions and amended definitions to fully understand the extent of their current compliance obligations.
Chapter 1 – Ownership, Management or Control by the Governing Body	More stringent requirements now including the performance management of the principal and the governing body being questioned in more detail about their knowledge of their responsibilities and accountabilities.	Schools should make sure their governing body (GB) has established that it has at least one of ownership, management or control of the school. The Director General may require evidence that the governing body itself will have overall governance of the school as required by Section 160(1)(e) of the Act and satisfy the accountability requirements in Section 160(1)(f).
Chapter 2 – Governing Body’s Constitution	No Change.	Continue compliance requirements as for the 2017 Standards and Guide.

Chapter 3 – Fit and Proper Membership	New definition for “fit and proper” and description of conflicts of interest.	Schools should make sure their register of GB members and statutory declaration process includes matters relating to character, competency, prior conduct or qualifications and conflicts of interest.
Chapter 4 – Observance of the Registration: Standards - Standard 1: Curriculum	New details about the Early Years Learning Framework, new details for approved curricula for each type of education and schooling, expanded Years 11 and 12 requirements and removal of GB requirements.	Schools will need to understand the changes to the 2018 Guide including removal of GB requirements and new requirements for Year 11 and 12 and adjust their curriculum plans accordingly.
Standard 2: Staff to Student Ratios	Same requirements as 2017 Guide however more detailed based on requirements of Standard 1 (Curriculum).	Schools should consider changes to evidence requirements for staff sufficiency taking into account the types of curricula described in Standard 1 and the mode of delivery including online-only.
Standard 3: Days and Hours of Instruction	Small terminology change in title and now split into two substandards. New substandard for requirements in final year of education.	Schools should change their terminology to match terminology provided in the 2018 Guide. Schools should also address the evidence requirements for pre-Kindergarten including minimum days and maximum hours rather than minimum hours and minimum days.
Standard 4: Staff	Significant change including amended substandards and changes to annual training for teachers on child protection and grooming.	Schools should focus on staff understanding of the school’s culture of child safety through annual training, the staff code of conduct and induction of staff and replacement teachers.
Standard 5: Premises	New inclusions of Substandard 5.3 - premises used by Boarding Students, new explanation for child safe environments and new explanations for boarding premises.	Schools should be aware that many of these requirements were moved from Standard 10 (Boarding) in the 2017 Standards and Guidelines, and they should understand any use of the new explanations for terms by the Director General.
Standard 6: Facilities	New Substandard 6.2 for providing ancillary support.	Schools should be aware of new definitions for ancillary support and the new evidence requirements provided in the 2018 Guide.
Standard 7: Children per Year Level	Minimal Changes.	Most requirements remain the same as the 2017 Guide however the definition of ancillary services has been amended to the new definition of ancillary support.
Standard 8: Enrolment and Attendance	New definition of “unlawful discrimination”	Schools, especially those who are classified as CARE schools should be aware of the new definitions and

	and new Substandard 8.1 applying only to CARE schools.	requirements.
Standard 9: Critical and Emergency Incidents	New definition for “critical incidents” which now includes child abuse allegations and grooming incidents by staff members.	Schools should update their register for critical incidents to include the new definitions.
Standard 10: Boarding	Substantially shortened with the previous 2017 Substandards moved to other places in the 2018 Standards.	Schools should be aware of the new evidence requirements for Boarding school teachers and communication with parents and guardians. The 2018 Guide also details that the school’s policies and procedures should be benchmarked against contemporary best practice in protecting the safety and wellbeing of students in boarding facilities, as determined by a relevant peak body, such as the Boarding Standard for Australian schools and residences [AS 5725:2015] published in July 2015. The policies and procedures should also give due recognition to the finding of the Royal Commission into Institutional Responses to Child Sexual Abuse that the risk of child sexual abuse in boarding schools is heightened.
Standard 11: Complaints Management	New substandard 11.4 handling complaints from former students or their parents/guardians	Schools should be aware of the new requirements for child friendly complaints management policies and processes and accepting complaints from students and their parents or guardians despite their enrolment having ceased.
Standard 12: Child Abuse Prevention	Significantly changed.	Change in focus for schools from response to prevention followed by response. New changes to reflect the importance of the staff code of conduct including compliance with mandatory reporting obligations.
Standard 13: Financial Resources	Essentially unchanged except for terminology.	Schools should be aware of the terminology changes including substitution of “financial resources” for “financial viability” and “ancillary support” rather than “ancillary services”.
Standard 14: Management of Student Behaviour	Terminology change and definition of new terms.	Standard name has now been changed from Discipline and Punishment to Management of Student Behaviour. New definitions of key terms have also been supplied.
Standard 15: Minimum Age of Enrolment	<i>New Standard.</i>	Schools should now acknowledge that children cannot be enrolled before three years old.
Standard 16: Delivery of the Curriculum	<i>New Standard.</i>	Standard specifically focused on online and remote learning.
Standard 17: Numbers of Children Enrolled	<i>New Standard.</i>	Standard specifically focused on enrolment numbers in CARE schools.

Chapter 5 – Separation of Governance and Day-to-Day Management	Essentially unchanged.	Schools should be aware of the Director General’s renewed focus on the separation of the role of managing and the role of the GB.
Chapter 6 – Governing Body Accountability	Essentially unchanged.	Some small changes to Director-General's evidence requirements including commitment to a governing body's accountability eg. reviewing and monitoring financial performance with the tabling of monthly managements reports at regular governing body meetings; and establishing a yearly budget and business plan incorporating financial forecasts for a period of three to five years endorsed annually by the governing body.
Chapter 7 – Standard of Education	Essentially unchanged.	Schools should be aware of the removal of Year 11 and 12 differentiated curriculum requirements (moved to Standard 1 (Curriculum)).
Chapter 8 – Levels of Care	Minimal Changes.	Greater focus on excursion risk management for Kindergarten and Pre-Kindergarten students and greater detail on Bullying and Harassment including detailed definitions. New Director General's guidelines for school and context specific levels of care.
Chapter 9 – School Planning Proposal	No Change.	Continue compliance requirements as for the 2017 Standards and Guide.
Chapter 10 – International Students	Removal of content.	Significantly shortened compliance requirements through removal of some requirements and including a reference to meeting the Standards provided in the National Code of Practice for Providers of Education and Training to Overseas Students 2018 instead.
Chapter 11 – The Application Process	Essentially unchanged.	Some minor changes to quality improvement notices and refusal of application.
Chapter 12 – Other Governing Body Obligations	No Change.	Continue compliance requirements as for the 2017 Standards and Guide.

4. Major Standard Changes

✓ Definitions within the Guide

Pages 4-8 and 77-80 of the 2018 Guide provide definitions for the bulk of the terms, acronyms and abbreviations. Understanding the definitions is critical for schools to fully understand the extent of their current obligations.

Schools should read and note the new definitions including:

- ✓ Ancillary Care
- ✓ CARE School
- ✓ Code of Conduct
- ✓ Complainant

- ✓ Compulsory Education Period
- ✓ Director General
- ✓ Educational Risk
- ✓ Geographically Isolated
- ✓ Minimum Hours of Instruction
- ✓ Pre-compulsory Education Period.

Schools should also note that changes to definitions for:

- ✓ Critical and Emergency Incidents – new requirements for circumstances posing a critical risk.
- ✓ Early childhood definitions – including Early Childhood Teaching Qualifications, Early Childhood Teacher, Early Education Period and Final Year of Early Education Period, mainly focused on the changes to the National Quality Framework (NQF) which take effect in WA from 1 October 2018.
- ✓ Grooming – clarified focus on reporting obligations for staff in line with Standard 4: Staff.
- ✓ Online Learning – linked to new Standard 16: Delivery of the Curriculum, which restricts the delivery of online learning to students who are geographically isolated.
- ✓ Unlawful Discrimination – more specification about the particular state legislation required to be a part of a school’s compliance.

Finally, schools should also be aware of the removal of the definition of Staff Code of Conduct which is now addressed more thoroughly within the amended Standard 4: Staff and Standard 12: Child Abuse Prevention.

✓ **Chapter 1 – Ownership, Management or Control by the Governing Body**

This Chapter is based on Section 160 of the Act which details that the Director General must be satisfied that the GB of the school has ownership, management and control of the school. This Chapter has had significant changes in the 2018 Standards and Guide, regarding the level of knowledge required by the GB of what they are accountable for, including:

- ✓ performance management of the principal
- ✓ strategic direction of the school
- ✓ financial resources
- ✓ achievement in student learning
- ✓ planning including business plan, strategic plan and school improvement plan
- ✓ National Quality Standards (NQS) audits for early learning
- ✓ the Child Safe Organisation Framework.

The GB must prioritise the school’s culture of safety, be able to separate their role from day-to-day management (through appropriate policies and procedures like conflicts of interest) and have overall accountability for risk management and policies and procedures related to this around the school.

The DET’s expectations of the GB include:

- ✓ knowledge of what they are accountable and responsible for
- ✓ good policies and procedures
- ✓ receiving enough information from the Principal and Business Manager to know what is really happening in the school.

✓ **Chapter 3 – Fit and Proper Membership**

Chapter 3 is based on Section 160(1)(d) of the Act where the Director General is given authority to consider the fitness and propriety of each GB member to operate a school. The 2018 Guidelines contain a new definition of “fit and proper” which is intended to give the widest possible discretion to the decision-maker. It can cover both

character and competency and enables the Director General to take into account matters which can fairly be seen to be relevant to the vocation in issue. Among the factors the Director General may consider, apart from the prior conduct of the GB member, is whether each member has qualifications, expertise or experience relevant to operating a school and whether any member has a conflict of interest which cannot be effectively managed.

Conflicts of interest where they cannot be avoided, are to be declared and the conflicted member must not participate in either the discussion or the vote on the matter about which there is a conflict of interest. Ideally the member will leave the meeting while the matter is considered. A GB's conflicts of interest, and the failure or inability to appropriately manage such conflicts, can be taken into account regarding fitness and propriety. The conflicts of interest affecting governing body members may be so extensive as to make the governing body dysfunctional. In such a situation, the Director General may require the governing body to amend its constitution and/or make changes to its membership.

✓ **Standard 4: Staff**

Standard 4 (Staff) despite being generally about the same material, has had a lot of detail added to each substandard to focus on the school's culture of child safety. This includes:

- ✓ Substandard 4.1: responsibility for WWCC for staff and volunteers has been transferred from the governing body to the school as a whole.
- ✓ Substandard 4.2: more detail has been provided on teaching staff, their replacements and appropriate qualifications. Specifically, there is a focus on early childhood teacher obligations, to incorporate the new National Quality Framework, which commences in October 2018 in WA.
- ✓ Substandard 4.3 new obligations for schools to have in place a staff code of conduct, with a focus on obligations for staff including reportable conduct, mandatory reporting, appropriate interactions between staff and students, and, a new duty for all staff to report "objectively observable behaviour which is not permitted by the Code" to the principal, a designated senior staff member or the chair of the school's governing body. This is in addition to any other obligations at law like mandatory reporting. The Director General's expectations in the Guide have also been significantly expanded to include the facts that the Staff Code of Conduct is designed to promote positive work practices and establish expectations for personal and professional boundaries concerning appropriate and inappropriate behaviour in relation to staff, students, volunteers, parents and guardians.
- ✓ Substandard 4.4: explicit details about what information staff require upon induction to the school, including training during staff induction on the school's policies and procedures for the prevention, detection and reporting of suspected and actual grooming and sexual abuse and teacher and boarding supervisor mandatory reporting obligations. These obligations have been moved from Standard 12 (Child Abuse) in the 2017 Standards and Guide.
- ✓ Substandard 4.5: annual professional learning requirements for staff have been expanded to include new requirements for mandatory reporting, grooming and staff code of conduct obligations

Apart from the new Substandard requirements, early childhood teacher qualifications have been expanded to include the new NQF, and the Director General's expectations for the staff code of conduct have been expanded.

✓ **Standard 11: Complaints Management**

Standard 11 (Complaints Management) has a new Substandard 11.4 focused on accepting complaints from former students and their parents/guardians despite enrolment of the student having ceased.

There is also a key focus on child-friendly policies and procedures for complaints management. These procedures should be drafted in line with recommended guidance from the WA Commissioner for Children and Young People - [Are you listening? Guidelines for making complaints systems accessible and responsive to children and young people](#). This includes having a complaints system which is:

- ✓ focused on children and young people
- ✓ visible
- ✓ accessible
- ✓ responsive

- ✓ confidential, and
- ✓ accountable for continuous improvement.

Evidence requirements highlighted by the Director General in the 2018 Guide have also been split into child friendly and accessible requirements, with the standard requiring that the school's complaints policy, and an email address and phone number to make a complaint, should be publicly accessible on the school's website. Information about the complaints policy should also be available in the student and parent handbooks. To increase accessibility for all members of the school community, including students, a simple flow diagram should be included. Schools with boarding facilities must include or provide separate policies/procedures/flow diagrams for boarders and their parents or guardians.

✓ **Standard 12: Child Abuse Prevention**

There have been small but significant changes to Standard 12 (Child Protection) in the 2018 Guide and most of these changes reflect the greater detail given in the Standards to a positive school culture in relation to child protection requirements and student wellbeing, and the training and staff requirements specified in Standard 4 (Staff).

In the 2018 Guide, schools must now have a child protection policy applying to all staff, based on a comprehensive implementation of a relevant, child-safe organisation framework benchmarked as better practice by a peak body. This peak body framework, despite not being identified in the 2018 Guide, has been confirmed by the Department of Education as being the [Child Safe Organisations WA Guidelines](#), prepared by the WA Commissioner. The Board must have full knowledge of and accountability for the child protection program which should look towards implementing the nine domains outlined in the Child Safe Organisations Guidelines, including:

- ✓ leadership, governance and culture
- ✓ empowering children to participate
- ✓ involving family and community
- ✓ child safe and friendly policies
- ✓ managing staff and volunteers
- ✓ safe environments – physical and online
- ✓ child friendly complaint process and reporting
- ✓ education and development, and
- ✓ continuous improvement.

The Guide also outlines the need for schools to now have policies, procedures, practices and strategies in place for both grooming and child abuse, including giving examples of conduct which classifies as each. This includes annual professional learning requirements for all staff in order for them to comply with grooming behaviours recognition and reporting, and their obligations under mandatory reporting requirements.

The 2018 Guide has also specified that adequate recruitment processes which includes WWCC, protective behaviours curriculum familiarity, interview process and induction process are to focus on being a child safe organisation and the culture of child safety of the school.

Corresponding amendments have been made to Standard 9 (Critical and Emergency Incidents) and the 2018 Guide provides more detail of what is classified as a critical and emergency incident which must now include one of five circumstances:

- ✓ death, or life-threatening injury, of a student or staff member at school, or following an incident that occurred at the school, or through a related school-based activity or circumstance
- ✓ circumstances that pose a critical risk to the health or safety of one or more students or staff
- ✓ receipt of an allegation of child abuse, including but not limited to sexual abuse, committed against a student by a staff member or student, or another person on the school premises or during school related activities, whether the abuse is alleged to have occurred recently or in the past
- ✓ issuing a formal warning to a staff member or ceasing the employment of a staff member for a breach of the Staff Code of Conduct suspected to be grooming behaviour, and

- ✓ any incident requiring school closure, lockdown, or a reduction in the number of students or staff attending.

The Notification procedures in Standard 9 have also been significantly expanded in the 2018 Guide to include formal warnings and termination of staff for breaching the staff code of conduct and the new obligations regarding child abuse and grooming.

Finally, Standard 12 also reflects the greater focus on a culture of safety by requiring the school to have in place a student code of conduct including requirements for student induction (this was moved from Standard 10 (Boarding) in the 2017 Guide to improve the focus on child protection and behaviour). The student code of conduct should establish minimum standards of conduct to be observed by all students attending the school and boarding facilities, if relevant. The student code of conduct should guide student behaviour, establish expectations for personal boundaries and clearly delineate appropriate and inappropriate behaviour in relation to staff, other students and other members of the school community. Both the student and staff codes of conduct and the summary of how the school complies with the protective behaviours curriculum (and peak body framework) must also be supplied to parents and guardians.

5. What Should Schools be Doing?

Schools should review the 2018 Standards and the 2018 Guidelines in their entirety, paying particular attention to the new and significantly changed Standards.

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 legislation, the 2018 Standards and the 2018 Guidelines. The outcome of this gap analysis will determine the adjustments needed to ensure compliance.

With the delayed release of evidence requirements in the 2018 Guidelines and the fast pace of registration updates and regulatory reform, it is highly possible that many schools will still be non-compliant with the changes to registration for individual non-government schools. It is imperative that a gap analysis is undertaken as soon as possible to prepare for 2018 registration dates.

6. 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 2018 Standards and the 2018 Guidelines.

CompliSpace has also developed an additional Overseas Students Module which will be available from Term 2, 2018, to help schools address each of the National Code 2018 requirements for CRICOS registration and overseas students, in line with Chapter 10 of the WA registration requirements.

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:

T: 1300 132 090

E: contactus@complispace.com.au

W: www.complispace.com.au

CompliSpace Media is the publisher of the school governance news site: www.schoolgovernance.net.au