



# **VIC Registration Requirement Update Briefing Paper 2019**

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## Executive Summary

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- ✓ The Education and Training Reform Act 2006 (Vic) (the Act) and Schedule 4 of the Education and Training Reform Regulations 2017 (Vic) (the Regulations) establish the minimum standards and other requirements Victorian schools must meet to register and maintain registration.
- ✓ The Victorian Registration and Qualifications Authority (VRQA)'s Guidelines to the Minimum Standards and Requirements for School Registration (2019 Guidelines) commenced on 1 January 2019. The 2019 Guidelines supersede the 2017 Guidelines to the Minimum Standards and Other Requirements for Registration of Schools including those offering Senior Secondary Courses (2017 Guidelines).
- ✓ The Regulations and the 2019 Guidelines support the Act and together with Ministerial Orders 706: Anaphylaxis Management in Victorian Schools (MO 706), Ministerial Order 870 (MO 870) for managing the risk of child abuse and the Guidelines for Registered Schools for Bushfire Preparedness, they comprise the registration regulatory framework for Victorian non-government schools.
- ✓ Unlike the significant legal changes introduced by the 2017 Guidelines (refer to our [2017 Briefing Paper](#)), the changes in the 2019 Guidelines are primarily additional evidence requirements to the existing standards.
- ✓ Registered non-government schools must comply with the 2019 Guidelines by 1 July 2019. Catholic schools are already being reviewed against the CECV version of the Guidelines.
- ✓ Non-Catholic schools must now start to consider the requirements of the 2019 Guidelines, determine the impact of the changes on their governance structures and introduce new policies and procedures to ensure compliance by 1 July 2019.

# Background

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## All Non-Government Schools

Non-government schools in Victoria are required to comply with the Guidelines. The Guidelines are published by the VRQA.

There is understandably some confusion among schools in relation to when the 2019 Guidelines will take effect, as well as what version of the Regulations and Guidelines they will be assessed against for registration review purposes. The 2019 Guidelines were approved by the VRQA Board on 12 December 2018 and commenced on 1 January 2019.

For existing registered schools in Victoria, the VRQA requires compliance with the 2019 Guidelines by 1 July 2019. Schools applying for registration after 1 January 2019 must comply from that date.

## The CECV and Catholic Schools

Catholic schools are subject to review by the Catholic Education Commission of Victoria Ltd (CECV). The CECV published Guidelines to the Minimum Standards and Requirements for School Registration and Other State and Commonwealth Requirements for Victorian Catholic Schools February 2019 (2019 CECV Guidelines) to assist Victorian Catholic schools to understand the requirements of the Minimum Standards and the Australian Education Act 2013 (Cth).

While the information in this paper is relevant to all non-government schools in Victoria, Catholic schools should be mindful that this paper has been written in response to the requirements of the 2019 Guidelines, not the 2019 CECV Guidelines. Catholic schools must already be compliant with the 2019 CECV Guidelines.

## An Outline of the Structure and Revision of the Standards and the Guide

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The 2019 Guidelines have updated the terminology and titles of sections to better reflect the language of the Minimum Standards as outlined in Schedule 4 of the Regulations. The structure has largely remained the same, although the grouping of some of the subsections has been slightly altered.

The primary difference is that the 2019 Guidelines provide additional documentary evidence requirements that schools must meet to demonstrate their compliance with the Minimum Standards. A number of the explanatory notes in the 2019 Guidelines are also now more expansive than the 2017 Guidelines.

A summary of the key changes is set out below. The VRQA has also provided a factsheet summary on the changes contained in the 2019 Guidelines on their [website](#).

## School Governance

### *Governance*

This Guideline corresponds to Schedule 4 clause 15(1) of the Regulations.

The 2019 Guidelines additionally require that schools must have evidence of:

- ✓ details of the member(s) of the company, if the school is a company limited by guarantee
- ✓ copies of all delegations from the school's governing body

- ✓ a conflict of interest register for all “responsible persons” and an explanation of how any conflict will be managed.

To comply with these requirements a school must first understand the legal structure of their organisation and the legal definition of “responsible person”. In particular, the identities of the responsible persons need to be understood for the conflict of interest register to be effective. If schools are unsure of their legal structure (a company limited by guarantee, association or other organisational body), they should seek legal advice.

### ***Not-for-profit Status***

This Guideline corresponds to Schedule 4 clause 17 of the Regulations.

Under Regulation 7, registered schools in Victoria must be not-for-profit. The Regulations define what is meant by the term “not-for-profit”.

The 2019 Guidelines require that schools must have evidence of:

- ✓ copies of contracts or arrangements with third parties
- ✓ copies of loan agreements, guarantees and the like from third parties
- ✓ details of the related entity and/or affiliated organisation and relationship between the school and that entity
- ✓ the legally binding written agreement for any loans or arrangements for the delivery of services to the school.

These requirements are already likely to be part of a school’s existing procurement processes.

### ***Probity***

This Guideline corresponds to Schedule 4 clause 15 of the Regulations.

The 2019 Guidelines now require that schools must have a list of each responsible person, their role and a summary of their qualifications and experience. Like the new requirement under the Governance section of the Guidelines, a school must first identify who its responsible persons are in accordance with the legal definition of that term.

### ***Philosophy***

This Guideline corresponds to Schedule 4 clause 16 of the Regulations.

The Minimum Standard establishes that schools must have a clear philosophy and now be able to describe how it is enacted. The Guidelines list methods of how to show a philosophy is enacted and a policy may be used to meet the “description” criteria.

## **Enrolment**

### ***Enrolment Policy***

This Guideline corresponds to Schedule 4 clause 8 of the Regulations.

The 2019 Guidelines require that schools have a publicly available enrolment agreement with parents or guardians which covers:

- ✓ codes of conduct

- ✓ fees
- ✓ the educational services provided
- ✓ the grounds on which the agreement may be terminated.

Many schools already make a variety of enrolment information publicly available, such as application forms, fee schedules and the enrolment agreement. Schools who have not previously made such information public must now do so to be compliant with the new requirement.

## Curriculum and Student Learning

### *Curriculum Framework*

This Guideline corresponds to Schedule 4 clause 6 of the Regulations. Note that schools may be exempt from this Minimum Standard under regulation 61 of the Regulations.

The 2019 Guidelines require that schools have a curriculum plan that shows how the learning areas will be substantially addressed and how the curriculum will be organised and implemented.

### *Student Learning and Outcomes*

This Guideline corresponds to Schedule 4 clause 2 of the Regulations.

Under previous Guidelines, schools are already required to have a documented strategy to improve student learning outcomes. Under the 2019 Guidelines, the document strategy must now also address:

- ✓ policies and procedures for reviewing the curriculum and teaching practices
- ✓ the processes the school will use to set goals and targets for outcomes including students at risk.

Schools must develop frameworks to ensure that different stakeholders work together to achieve school improvement and ensure effective learning outcomes for students. Collecting and interpreting data is one way to assist schools to measure the success of their improvement initiatives and identify areas for improvement.

## Care, Safety and Welfare of Students

This Guideline corresponds to Schedule 4 clause 12 of the Regulations.

The 2019 Guidelines require that schools have:

- ✓ policies and procedures detailing when it may be necessary to use restrictive interventions to protect the safety of a student and members of the school community
- ✓ strengthened requirements in the school's policy and procedures for managing complaints and grievances to include how the school manages procedural fairness and how the policy and procedures are accessible to the school community.

The term "restrictive interventions" is undefined in the 2019 Guidelines. In the disability industry the term has a specific meaning and restrictive interventions can only be used by licensed individuals. Although the VRQA has not defined the term, it is understood that in the school context, "restrictive interventions" means restraint. Victorian schools should already have complaints handling procedures in place to comply with various other legal obligations, such as those arising under privacy laws. There are many benefits to effectively handling complaints, and the need for procedurally fair and accessible policies and procedures is essential. Refer to our briefing paper [Complaints Handling in Non-Government Schools February 2018](#) for more information about how to establish and implement an effective complaints handling program in your school.

The explanatory notes in the 2019 Guidelines also provide more detail on the already required emergency management plan. The plan must now address emergency and critical incidents including:

- ✓ circumstances that pose a critical risk to the health, safety or wellbeing of one or more students or staff
- ✓ incidents requiring school closure, lockdown or a reduction of the number of students or staff attending
- ✓ death or serious injury of a student or staff member at school or at another location authorised by the school, for example, with another provider such as a registered training organisation.

The emergency management plan should be updated as required throughout the course of the year as activities (e.g. school camps, excursions) are approved by the school.

## ***Student Behaviour Management (Discipline)***

This Guideline corresponds to s4.3.1(6)(a) of the Act.

The 2019 Guidelines require that schools must have evidence of:

- ✓ an explanation of the school's approach to behaviour management
- ✓ the school's steps for managing suspensions and expulsions of students and how this is communicated to parents and guardians
- ✓ procedures for maintaining a register of suspension and expulsions.

Government schools must comply with Minister Order 1125 – Procedures for Suspension and Expulsion of Students in Government Schools. While non-government schools do not need to meet the requirements of that Ministerial Order, they may choose to refer to it and related Department of Education and Training policies for guidance in developing their own behaviour management policies and procedures.

## ***Attendance Monitoring***

This Guideline corresponds to Schedule 4 clause 10 of the Regulations.

The 2019 Guidelines expand on previous guideline requirements so that schools must now have evidence of how they:

- ✓ identify the person(s) with responsibility for monitoring daily attendance
- ✓ follow up unexplained absences on the day of a student's absence
- ✓ accurately record attendance on student files.

## **For Schools Offering a Senior Secondary Course**

Schools in Victoria applying to offer a senior secondary qualification must meet the Minimum Standards set out in the Act and the Regulations. They must also meet the Minimum Standards for Registration to provide an accredited senior secondary course (Schedule 9 and regulation 86 of the Regulations).

In Victoria, the accredited senior secondary qualifications are the VCE, VCAL and the IB Diploma Programme. Schools must obtain authorisation from VCAA or IB to deliver these courses.

The following are the changes that apply to schools offering a senior secondary course from the 2019 Guidelines.

## ***Governance and Probity***

This Guideline corresponds to Schedule 8 clause 6 of the Regulations.

The 2019 Guidelines additionally require that schools must have evidence that:

- ✓ the physical environment is sufficient to support the delivery of the course
- ✓ teachers are suitably qualified and experienced
- ✓ there are procedures to support students to undertake a course best suited to their abilities
- ✓ there are sufficient financial resources to deliver the course to the standards of the awarding body.

These new requirements require a school to have adequate risk management procedures in place to ensure that the final years' study of senior students is not disrupted or threatened by financial mismanagement or teacher inexperience.

## ***Student Records and Results***

This Guideline corresponds to Schedule 8 clause 4 of the Regulations.

The 2019 Guidelines additionally require that schools must have evidence of their policies and procedures to ensure the:

- ✓ integrity of assessment
- ✓ accuracy of records
- ✓ monitoring of student participation, completion rates and student outcomes.

Various tools exist to help schools develop policies and procedures to securely manage their records, for example the Australian Society of Archivists' 2018 Records Retention & Disposal Schedule for Non-Government Schools (2<sup>nd</sup> Edition).

## ***Student Welfare***

This Guideline corresponds to Schedule 8 clause 3 of the Regulations.

The policies and procedures necessary to meet this standard are covered in the care, safety and welfare Minimum Standards, provided earlier in the 2019 Guidelines. However, there is an additional requirement that schools offering senior secondary courses have expanded policies and procedures that cover any additional arrangements that the school has in place for:

- ✓ how attendance is monitored for students participating in courses provided by another senior secondary course provider
- ✓ supervision of students outside scheduled classes.

A school's duty of care does not cease while a student is on an external education provider's premises and these new obligations remind schools of the need to ensure that they have procedures in place to protect their students while they are not on school premises.

## ***Teaching and Learning***

This Guideline corresponds to Schedule 8 clause 5 of the Regulations.

The 2019 Guidelines implement the additional requirement that schools must have evidence of their expanded



policies and procedures to:

- ✓ ensure the assessment of senior secondary courses is fair, valid and reliable
- ✓ address cheating including plagiarism
- ✓ conduct investigations and hearings and if necessary amend or cancel assessments.

Schools must now also provide evidence of a student handbook and resources which address the senior secondary course rules and procedures for assessment. Most schools would already have such policies and procedures in place however they should be regularly reviewed and updated to reflect changing cheating practices which may be facilitated by new technologies and mobile software devices.

## Next Steps for Schools

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The requirements for review became a condition of registration from 1 January 2019, although a transition period applies until 1 July 2019 (non-Catholic schools only).

Schools should as a first step, review the 2019 Guidelines in their entirety. Schools should also refer to the wording in the Regulations for key definitions and further explanation of the Minimum Standards.

As a second step, schools should conduct an internal audit of current policies, procedures and work practices and undertake a gap analysis against the obligations set out in the Standards. The outcome of this gap analysis will then determine the work that will then need to be undertaken to ensure compliance by 1 July 2019. Catholic schools must already be complying with the Standards.

The 2019 Guidelines will require all schools to review their current approach to various topics and make necessary changes in order to meet the Minimum Standards.

## 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 Minimum Standards in the Regulations and the 2019 Guidelines.

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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