Registration Systems and Member Non-government Schools (NSW) Manual

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Please note: Amendments to the manual are noted, as they take effect, in the Official Notices of the Board Bulletin. The most up-to-date manual at any time is available on the Board’s website <www.boardofstudies.nsw.edu.au>. 
The Board of Studies reserves the right to make amendments to the Manual at any time where additional information/clarification regarding policies or procedures is required. The current version of the Manual will be maintained on the Board’s website. Schools will be advised of significant changes when they occur.

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1 Introduction ...................................................................................................................... 5
1.1 Responsibilities of the Minister for Education in relation to the registration of non-government schools ........................................................................................................... 6
1.2 Responsibilities of the Board of Studies in relation to the registration and accreditation of non-government schools ...................................................................................... 6

2 Legislative Basis for the Registration and Accreditation of Non-government Schools and Systems of Non-government Schools ..................................................... 9
2.1 Definition of a registered non-government school ................................................... 9
2.2 Objects for the administration of the Act .................................................................. 9
2.3 The role of the Board in the registration and accreditation process ....................... 10
2.4 Systems of non-government schools ..................................................................... 11
2.5 The registration process ........................................................................................ 13
2.6 Conducting an unregistered school ....................................................................... 18
2.7 The accreditation process ...................................................................................... 18
2.8 Conducting a school that is not accredited ............................................................. 21

3 Requirements for Forming a New System of Non-government Schools ............... 22
3.1 The approved authority for the proposed system of non-government schools .... 22
3.2 Monitoring compliance ........................................................................................... 22

4 Requirements for a System of Non-government Schools .......................................... 24
4.1 Monitoring compliance of member schools by the approved authority for a registration system .................................................................................................................... 24
4.2 Registration requirements of member schools ..................................................... 25
4.3 Provisional registration of member schools ......................................................... 25
4.4 Accreditation requirements of member schools ................................................... 29
4.5 Provisional accreditation of member schools ......................................................... 29
4.6 Changes in circumstances of the operation of member schools ......................... 33
4.7 Conducting a school that is not registered and/or accredited ............................... 36
4.8 Concern about the monitoring procedures of a registration system ...................... 37

5 Registration Requirements for Member Schools ..................................................... 39
5.1 Proprietor and principal of the school ................................................................. 39
5.2 Staff ....................................................................................................................... 40
5.3 Curriculum ............................................................................................................. 44
5.4 Premises and buildings ......................................................................................... 51
5.5 Facilities ................................................................................................................ 52
5.6 Safe and supportive environment ......................................................................... 53
5.7 Discipline ............................................................................................................... 57
5.8 Attendance ............................................................................................................. 58
5.9 Management and operation of the school ............................................................ 60
5.10 Educational and financial reporting ..................................................................... 63
5.11 Schools with boarding facilities ............................................................................ 67
1 Introduction

The Registration Systems and Member Non-government Schools (NSW) Manual provides information related to the operation of systems of non-government schools formed under section 39 of the Education Act 1990. The Manual also details the requirements for registered and accredited non-government schools under the Act.

Registration is a non-government school's licence to operate. The main purpose of registration is to ensure that the requirements of the Education Act are being, or will be, met.

Accreditation authorises a non-government school to nominate candidates for the award of the Record of School Achievement and/or the Higher School Certificate. The main purpose of accreditation is to ensure that the requirements for the Record of School Achievement and/or the Higher School Certificate are being, or will be, met.

A system of non-government schools as defined in the Education Act 1990, also referred to as a registration system, is a grouping of 20 or more schools or, with the Minister's approval, 11 to 19 schools, that has been approved by the Minister to monitor compliance with the requirements for registration and, if appropriate, accreditation for the schools within that registration system.

This Manual provides details about:
- the responsibilities of the Minister for Education in relation to the registration of non-government schools and approval of systems of non-government schools
- the responsibilities of the Board of Studies NSW in relation to the registration and accreditation of non-government schools
- the responsibilities of the Board of Studies in relation to the provision of advice to the Minister regarding systems of non-government schools
- the legislative basis for the registration and accreditation of non-government schools
- the legislative basis for the operation of systems of non-government schools
- requirements for systems of non-government schools and evidence of compliance with the requirements
- requirements for registered schools and evidence of compliance with the requirements
- requirements for accredited schools and evidence of compliance with the requirements
- procedures for refusal, non-renewal or cancellation of a school’s registration and accreditation
- procedures for applying for approval to operate as a system of non-government schools
- application forms
- other relevant information and a glossary.

This Manual should be read in conjunction with the Education Act, the Registered and Accredited Individual Non-government Schools (NSW) Manual and, as applicable, Board of Studies syllabuses, the Board of Studies’ Assessment Certification Examination (ACE) website and Board of Studies Official Notices.

The Education Act is amended from time to time and systems of non-government schools formed under the Act need to be aware that they and all registered and accredited member schools must abide by the current Act and all its amendments.
1.1 Responsibilities of the Minister for Education in relation to the registration of non-government schools

Under the Education Act, the Minister for Education has the authority to:

- approve the registration of an individual non-government school
- approve the formation of a system of non-government schools or proposed non-government schools, and
- approve the registration of non-government schools within an approved registration system

provided that, in each case, the relevant requirements of the Act are met.

The Minister approves the formation of a registration system if the Minister is satisfied that the manner in which the proposed system intends to monitor compliance with the requirements for registration of the non-government member schools and, if appropriate, for accreditation of the non-government member schools is adequate.

1.2 Responsibilities of the Board of Studies in relation to the registration and accreditation of non-government schools

The Board of Studies is responsible for making recommendations to the Minister about the registration of individual non-government schools, the approval of a system of non-government schools and the registration of non-government schools within approved registration systems. The Board provides advice to the Minister in connection with the exercise of the Minister’s functions in relation to systems of non-government schools. The Board is also responsible for accrediting registered non-government schools if the requirements of the Education Act relating to courses of study to be undertaken by candidates for the Record of School Achievement and/or Higher School Certificate are being, or will be, met. The Board usually accredits a non-government school in Years of schooling for a period of time corresponding to the period of registration of the school.

The Board’s activities, therefore, involve both setting the regulatory and accountability requirements of the Act for non-government schools and systems of non-government schools, and oversight of compliance with these requirements. The regulatory and accountability requirements of the Act are detailed in this Manual. They represent the minimum standards to be met for a registration system to be approved and for a school to be granted a licence to operate.

The requirements for non-government schools focus not only on the curriculum and its delivery but also on policies and procedures that foster the provision of a safe and supportive environment in which students can develop their educational potential. In addition, these requirements guide schools by stating the range of policies and procedures that need to be in place to demonstrate compliance with the Education Act.

The requirements for registered non-government schools relate to:

**Corporate governance** – schools must be constituted as or conducted by legal entities that are accountable for their contractual obligations. Proprietors, members of governing bodies and principals are required to demonstrate accountability in terms similar to those applying to members of other public or corporate bodies.
Teaching standards – schools should have the capacity to deliver the courses of study for which they are registered and accredited with a high standard of quality teaching. The NSW Institute of Teachers Act 2004 has set professional teaching standards. Teacher accreditation processes against these standards are administered by the NSW Institute of Teachers.

Student welfare – schools are required to demonstrate that they have in place policies and procedures to provide for the mental, physical and emotional well-being of students.

Educational programs – schools are required to base their courses of study on the outcomes of Board syllabuses, address the developmental needs of students and assist students to achieve their educational potential.

Boarding facilities – schools that operate boarding facilities are required to demonstrate that they have in place policies for the safety and welfare of boarders.

Public reporting – schools are required to participate in annual reporting to their communities against ‘core’ educational and financial measures.

As the regulatory body, the Board of Studies needs to be assured that a non-government school meets the requirements of the Act. To assist in making recommendations to the Minister as to whether a school meets the requirements of the Act, the Board has developed explanatory text and an outline of the evidence of compliance in relation to each requirement for inclusion in this Manual.

In considering the evidence of compliance provided by a school the Board recognises that non-government schools vary in their philosophy, ethos and practice. While the requirements of the Act need to be met, it is anticipated that the range of policies and procedures that a school has in place will vary and the content will reflect the context and philosophy of the school.

The Office of the Board of Studies administers the non-government school registration and accreditation program under delegation from the Board of Studies.

For systems of non-government schools, the registration and accreditation process for member schools involves monitoring the compliance of member schools by personnel from the approved registration system authority. The role of the Board of Studies is to provide advice to the Minister on:

- an application to form a system of non-government schools
- the manner in which an approved authority for a registration system monitors compliance of member schools with the requirements for registration of schools under Part 3 of the Act and, if appropriate, for accreditation under Part 8 of the Act
- the exercising of any of the Minister’s functions in relation to systems of non-government schools.

In carrying out its responsibilities in relation to registration, accreditation and systems of non-government schools, the Office of the Board is committed to complying with the Privacy and Personal Information Protection Act 1998 (NSW). It is also mindful of confidential matters related to the business affairs of schools and registration systems. The Information Protection Principles detailed in sections 8 and 9 of the Privacy and Personal Information Protection Act 1998 (NSW)
Protection Act set the privacy standards that the Office of the Board of Studies is required to follow when dealing with personal information. The Office’s Privacy Management Plan describes how the Office complies with the Information Protection Principles in relation to personal information supplied by registered and accredited schools and by systems of non-government schools in complying with the requirements of the Education Act. The Privacy Management Plan is available on the Board’s website www.boardofstudies.nsw.edu.au.

General information about the registration and accreditation process and registration systems is available on the Board’s registration and accreditation website www.schoolregistration.nsw.edu.au. For specific inquiries about applications for forming a system of non-government schools and/or for other information about registration and/or accreditation, the Office of the Board of Studies may be contacted on (02) 9367 8432, or email SchoolRego@bos.nsw.edu.au.
2 Legislative Basis for the Registration and Accreditation of Non-government Schools and Systems of Non-government Schools

The *Education Act 1990* provides for the registration and accreditation of government schools, individual non-government schools and non-government schools within a system of non-government schools formed under the Act. An updated version of the *Education Act 1990* can be found on www.legislation.nsw.gov.au.

2.1 Definition of a registered non-government school

The Education Act defines a registered non-government school as a school, other than a government school, registered under Part 7 of the Act. In undertaking its responsibilities under the Act, the Board of Studies requires a registered non-government school to:

- have as its major activity the provision of education, either primary or secondary (or both) or of a kind, or for children of a kind, prescribed by the Regulations
- be responsible for an educational program based on the Board’s syllabuses if registered only, or the Board’s curriculum and assessment requirements if registered and accredited
- have a principal (or equivalent) responsible for its day-to-day operation.

The term 'school' includes institutions registered for the compulsory years of schooling, institutions granted exemption from registration under section 75 of the Act, and those institutions registered for post-compulsory years, or granted exemption from registration under section 75 of the Act, provided that the institution is accredited to offer courses that lead to the award of the Higher School Certificate.

The term 'school' does not include preschools, long day-care centres, pre-primary classes in or attached to schools, referral centres for short-term remediation, senior technical colleges, evening colleges, continuation classes and institutions such as business or coaching colleges and community languages schools. This does not preclude locating such facilities on school premises.

The Act requires that schools be registered or meet the requirements for registration if a Certificate of Exemption from registration is granted under section 75.

2.2 Objects for the administration of the Act

As described in the 'Objects for administration' of the Education Act, it is the intention of Parliament that every person concerned in the administration of the Act or of education for children of school age in New South Wales have regard (as far as is practicable or appropriate) to the following objects:

- assisting each child to achieve his or her educational potential
- encouraging innovation and diversity within and among schools
- provision of an education for children that gives them access to opportunities for further study, work or training
• mitigating educational disadvantages arising from the child’s gender or from geographic, economic, social, cultural, linguistic or other causes
• provision of an education for Aboriginal children that has regard to their special needs
• development of an understanding of Aboriginal history and culture by all children
• provision of an education for children from non-English speaking backgrounds that has regard to their special needs
• recognition of the special problems of rural communities, particularly small and isolated communities
• provision of opportunities to children with special abilities
• provision of special educational assistance to children with disabilities
• development of a teaching staff that is skilled, dedicated and professional
• provision of opportunities for parents to participate in the education of their children
• provision of an education for children that promotes family and community values.

Further, the ‘Objects for administration’ of the Education Act also provides for courses of study required by this Act for the Higher School Certificate with regard to the following objects:
• to provide a curriculum structure that encourages students to complete secondary education
• to foster the intellectual, social and moral development of students, in particular by developing
  – their knowledge, skills, understanding and attitudes in the fields of study they choose
  – their capacity to manage their own learning
  – their desire to continue learning in formal or informal settings after school
  – their capacity to work with others
  – their respect for the cultural diversity of Australian society
• to provide a flexible structure within which students can prepare for
  – further education and training
  – employment
  – full and active participation as members of the community
• to provide formal assessment and certification of students’ achievements
• to provide a context within which schools also have the opportunity to foster the physical and spiritual development of students.

2.3 The role of the Board in the registration and accreditation process

Section 99 of the Education Act establishes the Board of Studies as a corporation and section 102 confers numerous powers on the Board. The functions of the Board of Studies under section 102 of the Act include providing advice and making recommendations to the Minister about the registration of non-government schools and making decisions about the accreditation of non-government schools under Parts 7 and 8 of the Act respectively.

Section 46 of the Act requires that the Minister obtain and have regard to the advice of the Board of Studies in connection with the exercise of any of the Minister’s functions in relation to systems of non-government schools.
Section 103 of the Act allows the Board of Studies to create committees to assist in exercising its functions. Section 119 of the Act allows the Board to delegate its powers under the Act to a person or a body, such as a committee. The Registration Committee of the Board of Studies is one such committee. The Board of Studies has delegated to this Committee its functions concerning the registration and accreditation of non-government schools and the monitoring of systems of non-government schools formed under the Act. The Registration Committee exercises its delegation from the Board within the Board’s policies.

**Note:** All references in this Manual to the Registration Committee making recommendations to the Minister concerning registration or decisions concerning accreditation are based on the Registration Committee exercising the Board’s delegation on registration and accreditation matters within prevailing Board policies. The process of review by the Board of decisions or recommendations made by the Registration Committee is described at section 11 of this Manual.

Section 54 of the Act makes provision for the Board to arrange for a registered non-government school to be inspected by a Board Inspector at random or if the Board has reason to believe that the school is not complying with the requirements for registration.

Section 69 of the Act makes provision for the proprietor or principal of a non-government school or the approved authority of a system of non-government schools to provide returns to the Board of Studies concerning the requirements for registration in a form and at the times determined by the Board.

Section 131 of the Act confers on the Board of Studies the power to make rules that include guidelines with respect to the requirements for registration and accreditation and for systems of non-government schools formed under the Act as set out in Parts 7 and 8 of the Act respectively.

The Act requires the Board to publish its rules as prescribed by the Regulation. Under the *Education Regulation 2007*, publication of the Board’s rules is via the Official Notices of the *Board Bulletin* and this Manual, which are published on the Board’s website www.boardofstudies.nsw.edu.au.

### 2.4 Systems of non-government schools

#### 2.4.1 Forming a system of non-government schools

Under section 39 of the Act, twenty or more registered or proposed non-government schools (or a number less than 20 but greater than 10 as the Minister approves in special circumstances on the recommendation of the Board) may form a system of non-government schools for the purposes of this Act.

Section 40 of the Act defines an approved authority for a system of non-government schools as the person or body who or which is appointed for the time being by:

(a) the proprietor or proprietors of the non-government schools, or
(b) the person or persons who propose to establish the non-government schools, to act on
their behalf in relation to the registration system or proposed registration system.

Section 41 of the Education Act provides for a proposed system of non-government schools
to apply in writing to the Minister for approval of that registration system. Any such
application must:
(a) specify the schools to be included in the proposed registration system, and
(b) include appropriate evidence that the applicant is the approved authority for the
proposed registration system, and
(c) include a description of the manner in which it is proposed to monitor compliance with
the requirements for registration of the schools under Part 3 and (if appropriate) for
accreditation of the schools under Part 8 of the Education Act.

Under section 42, the Minister is to approve the registration system if the Minister is
satisfied that the manner in which it is proposed to monitor compliance with the
requirements for registration of the member schools and (if appropriate) for accreditation of
the member schools is adequate. The Minister is to give the authority for the proposed
registration system written notice of the Minister's decision. If the system is approved, the
approved authority for the system of non-government schools must apply for registration of
all member schools (including those schools already registered under the Act) within six (6)
months of the Minister's approval of the registration system for that approval to continue.

Approval to operate as a system of non-government schools requires that the registration
system monitor compliance with the Education Act of its member schools.

2.4.2 Inclusion of a new school in a system of non-government schools

Section 43 provides for new schools to be included in a system of non-government schools.
The approved authority for a registration system must notify the Minister in writing that a
proprietor of a registered non-government school or a person who proposes to establish a
new non-government school wishes to become a member of the system. The school
becomes a member of that system on the giving of such notice. Unless an application is
made to register the school (whether or not already registered under this Act) within six (6)
months of it becoming a member of the system, under section 52 of the Act, the school
ceases to be such a member.

Under section 52 of the Act, the maximum initial period of registration that schools applying
to become members of a system of non-government schools can be granted is up to twelve
(12) months.

2.4.3 Withdrawal of a school from a system of non-government schools

Section 44 provides for the withdrawal of a non-government school from a registration
system. Such withdrawal may take place by:
- an approved system authority notifying the Minister in writing that a school that is a
  member of the registration system is to be withdrawn from the system. In this case, the
  school ceases to be a member of the system on the giving of that notice,
or,
• at the request of the proprietor of a non-government school and after consultation with the approved authority for the system, the Minister may agree to the school’s withdrawal from the registration system.

The approved registration system authority for a system of non-government schools formed under the Education Act may have requirements that apply to member schools that are beyond those of the Education Act. When making a determination as to the compliance of a member school, the approved authority for the registration system must only consider those requirements that relate to requirements of the Act. If a member school does not comply with system authority requirements that are beyond the Act, the approved authority for the system and the member school may consider whether the school wishes to continue to be a member of that system.

Under section 44 of the Act, a school that withdraws from, or is withdrawn from, a system of non-government schools does not have its registration or accreditation cancelled. Any such registration or accreditation, however, ceases after six (6) months if it has not expired sooner. During this time the school can apply for registration and/or accreditation as an individual school. The application for renewal of registration and/or accreditation must be made within one (1) month of the school ceasing to be a member of the registration system.

2.4.4 Withdrawal of approval of a system of non-government schools

Under section 45 of the Act the Minister may, at the request of the approved authority for the registration system or without any such request, withdraw the approval of a system of non-government schools at any time. The withdrawal of that approval does not cancel the registration of the schools that were members of the system (but any such registration ceases after 6 months if it has not sooner expired).

2.4.5 Board to advise Minister on systems of non-government schools

Under section 46 of the Act, the Minister is required to obtain and have regard to the advice of the Board of Studies in connection with the exercise of any of the Minister’s functions in relation to systems of non-government schools.

2.5 The registration process

2.5.1 Classes of registration

Section 53 of the Education Act states that the Certificate of Registration for a non-government school certifies the school as efficient for any one or more of the following three classes of registration:

• primary education for any specified Years
• secondary education for any specified Years
• education of a kind, or for children of a kind, prescribed by the Regulations.

Section 47 of the Act sets out the registration requirements for schools. Section 66 of the Act requires that the current Certificate of Registration be displayed in the entrance to the main school building or in some other conspicuous place at the school.
2.5.1.1 Primary education

Registered primary schools provide education for students in Kindergarten to Year 6. Under Section 47 of the Act schools providing primary education need to comply with the requirements set out in Part 3 that relate to the minimum curriculum for primary education. Typically:
- Kindergarten – Year 2 covers Early Stage 1 and Stage 1 of the curriculum
- Years 3 – 4 covers Stage 2 of the curriculum
- Years 5 – 6 covers Stage 3 of the curriculum.

2.5.1.2 Secondary education

Registered secondary schools provide education for students in Years 7 to 12. Under Section 47 of the Act schools providing secondary education for Years 7–10 need to comply with the requirements set out in Part 3 that relate to the minimum curriculum for secondary education. Section 47 also specifies that schools providing secondary education for Years 11–12 need to comply with the requirements set out in Part 3 that relate to the curriculum for students who are candidates for the Higher School Certificate. Typically:
- Years 7–8 covers Stage 4 of the curriculum
- Years 9–10 covers Stage 5 of the curriculum
- Years 11–12 covers Stage 6 of the curriculum.

A secondary school that is registered but not accredited is not eligible to enter candidates for the award of the Record of School Achievement or the award of the Higher School Certificate. Section 93 of the Act requires a school that is not accredited to enter candidates for the Record of School Achievement or Higher School Certificate to notify parents of students in writing that students who complete their Year 10 course at that school will not be eligible for a Record of School Achievement or Higher School Certificate. Schools should refer to the relevant sections of the Board of Studies Assessment Certification Examination (ACE) website for eligibility for the award of the Record of School Achievement or Higher School Certificate for students transferring from one school to another.

2.5.1.3 Schools providing education of a kind, or for children of a kind, prescribed by the Regulations

Children of a kind are prescribed by the Regulations as:
- children who need special instruction because of sensory, physical, intellectual or emotional disabilities
- children who are, or are the children of, foreign nationals.

Schools registered as providing education of a kind only, must establish to the satisfaction of the Board through the relevant approved authority for the registration system, that they should be registered as offering education of a kind rather than as a primary and/or a secondary school. As it is the responsibility of the school to provide a curriculum appropriate to the needs of its students, a school that has any students able to undertake the curriculum for primary education for any specified Years, and/or the curriculum for secondary education for any specified Years, must also seek such registration. Conversely, a school that is only registered for education of a kind, or for children of a kind, prescribed by the Regulations has only students enrolled at that school that meet those criteria.
2.5.2 Initial registration

Section 49 of the Act provides for the approved authority for a system of non-government schools to apply in writing to the Minister for initial registration of a proposed member school (including a proposed new school). Under this Section of the Act an application for registration of new schools must be made not later than 31 March in the year before the year the proposed proprietor or approved authority for a registration system intends to commence operating the school. Under Section 52 of the Act the maximum period of initial registration any school can be granted that applies to become a member of a registration system is twelve (12) months.

A system of non-government schools must have in place a process for considering applications for initial registration. The information that a proposed member school must provide in order to demonstrate the capacity to comply with the requirements for registration is detailed in section 6 of the Manual.

If the approved authority for a registration system is satisfied that the requirements for registration will be met, the approved authority may submit a recommendation for initial registration to the Registration Committee of the Board. The Board of Studies Registration Committee, under delegation from the Board, considers the authority’s recommendation and prepares a written report to the Minister including a recommendation as to whether or not the proposed school should be registered. The recommendation is then dealt with in accordance with Section 51 of the Act.

Section 52 of the Act requires that the initial registration of a non-government school joining a registration system be initial. Under this section of the Act the maximum period for which initial registration may be granted is twelve (12) months.

Section 52 of the Act also makes provision for the Registration Committee, under delegation from the Board, to recommend to the Minister that the initial registration period of the school be extended at any time before the expiry of the period of initial registration of the school if the Registration Committee is not satisfied that the school is complying with the requirements for registration.

2.5.3 Renewal of registration

Section 54A of the Act requires applications for renewal of registration to be made at least nine (9) months before the existing school’s registration is due to expire, or at a later date decided by the Board and communicated to the approved authority for the registration system in writing. This section of the Act also requires a non-government school applying for renewal of registration to demonstrate:

- whether or not the school continues to satisfy the requirements for registration under Section 47 of the Act and
- whether or not, since the school’s registration was granted or last renewed, the school has complied with the terms of the registration.

Under Section 57 of the Act the maximum period for which registration may be renewed is five (5) years. The requirements that member registered non-government schools must meet are detailed in section 5 of the Manual. A system of non-government schools must have in place a process for monitoring compliance of its member schools with these
requirements. The requirements that systems of non-government schools must meet are detailed in section 4 of the Manual.

Section 57A of the Act makes provision for the Registration Committee of the Board of Studies, under delegation, to recommend to the Minister that the registration period of a school be reduced and the school be placed on provisional registration at any time before the expiry of the period of registration of the school if the Registration Committee is not satisfied that the school is complying with the requirements for registration. If the member school is placed on provisional registration, parents of students at the school must be notified in writing by the school of the provisional registration status of the school and the consequences of the registration status.

2.5.4 Exemption from registration on religious grounds

Section 75 of the Education Act makes provision for a school to conscientiously object to registration on religious grounds. Schools that have a conscientious objection to registration on religious grounds must give notice to the Minister in writing. An objection to registration under the Act may be accepted if the Minister is satisfied that the member school would meet the requirements for registration under the Act if an application had been made for such registration. Member schools that have been granted exemption from registration must meet the requirements detailed in section 5 of the Manual. A system of non-government schools must have in place a process for monitoring compliance of its member schools with these requirements.

Schools granted exemption from registration under Section 75 of the Act receive a Certificate of Exemption. The Act states that such exemption may be granted for up to five (5) years.

Section 83 of the Act requires the current Certificate of Exemption from registration to be displayed in the entrance to the main school building or in some other conspicuous place at the school.

2.5.5 Common registration cycles for schools in a registration system

Under Section 58 of the Act the Minister may (but is not required to) register or renew the registration of non-government schools in a registration system so that their registration expires on the same date.

2.5.6 Failure to meet the requirements of registration

In cases where the Minister is not satisfied that the requirements for registration are being met, the Minister may, on the recommendation of the Registration Committee of the Board of Studies, under delegation, reduce a school’s period of registration in accordance with Section 57A of the Act. This process is detailed in section 4.3.4 of the Manual.

However, where the Minister is satisfied that the registration requirements are not being met, there is a power to cancel the registration of a non-government school under Section 59 of the Act. This process is detailed in section 10.1 of the Manual.
2.5.7 Extension of registration

Section 55 of the Education Act makes provision for the Board of Studies, if it is not satisfied that the requirements for registration are being complied with at a non-government school, to issue a notice to the school stating that renewal of registration of the school will not be recommended until the matters of concern stated in the notice have been addressed. The notice may specify the time within which any such matters must be addressed.

Under section 55 of the Education Act, the Minister may, on the advice of the Board of Studies and by written notice to the school, extend the period for which the school is registered in order to enable the concerns specified in the notice to be addressed.

Under the provisions of section 55 of the Education Act, the registration or initial registration may be extended more than once.

2.5.8 Renewal of registration and, if appropriate, accreditation for registration system schools

Under Section 49 of the Act, the approved authority for a system of non-government schools is (as far as practicable) to apply at the same time for the registration of all the schools that are members of the registration system as when the Minister first approved the system.

2.5.9 Cancellation of registration

Under Section 59 of the Act, the Minister may, on the recommendation of the Board, cancel the registration of a non-government school by written notice given to the approved authority for the registration system.

The Minister may not do so unless the Minister is satisfied that the requirements for registration are not being complied with at the non-government school.

The Minister may not cancel the registration of a non-government school under this section unless written notice of the Board’s recommendation has been given to the approved authority for the registration system and:

(a) thirty (30) days have elapsed since the giving of that notice, during which time no application has been made to the Tribunal for a review of the Board’s recommendation, or
(b) the Tribunal has determined an application for a review (made within thirty (30) days) of the recommendation and the Minister has considered any contrary recommendation of the Tribunal and the reasons for it, or
(c) any such application for a review of the recommendation has been withdrawn.

2.5.10 Limitation or cessation of registration

Under clause 6 of the Education Regulation 2007-2012, a non-government school is required to notify the Board of Studies when it closes or ceases to operate as soon as possible but not later than one (1) month after such a change has occurred (see section 4.6 of this Manual).

For the purposes of the Regulation, a school ceases to operate when:
there are no courses of study being taught at the school, that is, there are no courses that are based on and being taught in accordance with the Board of Studies syllabuses relevant to the Years of schooling for which the school is registered, or

there are no students enrolled at the school, that is, enrolled at the school in the Years of schooling for which the school is registered.

Under the Regulation, when a non-government school ceases to operate for one (1) year, the registration of the school is limited to the period ending one (1) year after the end of the first twelve (12) months during which the school did not operate.

When a non-government school ceases to operate for two (2) years or it closes, its registration ceases.

If the registration of a non-government school is limited or ceases, the Minister for Education will give written notice of that limitation or cessation to the approved authority for the registration system.

The limitation or cessation of registration under the Regulation applies to parts of a school such as a campus of a non-government school or specific Years of schooling that cease to operate or close.

Should the registration of a non-government school, or part of a non-government school, be limited or cease under this Regulation any corresponding accreditation for courses leading to the award of the Record of School Achievement and/or Higher School Certificate is also limited or ceases.

2.6 Conducting an unregistered school

It is an offence under section 65 of the Education Act to conduct or knowingly permit or assist in the conduct of an unregistered school for the education of children of compulsory school age. Penalties apply to persons who conduct unregistered schools.

2.7 The accreditation process

2.7.1 Types of accreditation

Section 85 of the Education Act provides for registered non-government schools to be accredited for the purpose of presenting candidates for the Record of School Achievement and/or the Higher School Certificate provided they meet the requirements of Part 8 of the Act.

2.7.1.1 Accreditation of registered secondary schools

Secondary schools that obtain accreditation in addition to registration must provide courses of study developed or endorsed by the Board for the award of the Record of School Achievement and/or the Higher School Certificate in the appropriate Years of schooling. Section 94 of the Act makes provision for the Board to prescribe requirements for the granting of the Record of School Achievement to students. Section 95 makes provision for the Board to prescribe requirements for the granting of the Higher School Certificate to students. Schools should refer to the relevant sections of the Board of Studies Assessment Certification Examination (ACE) website for the requirements prescribed by the Board and
for eligibility for the award of the Record of School Achievement and the Higher School Certificate.

The current Certificate of Accreditation must be displayed in the entrance to the main school building or in some other conspicuous place at the member school.

2.7.1.2 Accreditation of schools providing education of a kind, or for children of a kind, prescribed by the Regulations

Member schools that offer education of a kind for children with sensory, physical, intellectual or emotional disabilities/impairments who require individualised curriculum may also be accredited. For accreditation a member school must provide teaching/learning programs developed from Board syllabuses including Board Developed courses, Content Endorsed courses and/or Board Endorsed courses.

2.7.1.3 Accreditation of secondary schools that have been granted exemption from registration

Section 80 of the Act requires that a school granted exemption under section 75 of the Act be regarded as registered. Such schools can be accredited. Where accredited, they must provide courses of study developed or endorsed by the Board for the award of the Record of School Achievement and/or the Higher School Certificate in the appropriate Years of schooling. Schools should refer to the relevant sections of the Board of Studies Assessment Certification Examination (ACE) website for eligibility for the award of the Record of School Achievement and the Higher School Certificate.

The current Certificate of Accreditation must be displayed in the entrance to the main school building or in some other conspicuous place at the member school.

2.7.2 Initial accreditation

The Board requires that the approved authority for a system of non-government schools apply in writing to the Board for initial accreditation of a proposed member school (including a proposed new school). An application to approve a registered non-government school or a proposed non-government school for the purpose of presenting candidates for the Record of School Achievement and/or Higher School Certificate must be made not later than 31 March in the calendar year before the year the proposed school intends to commence operating. A similar requirement applies to an established registered non-government school applying for initial accreditation.

In considering whether the requirements of the Education Act relating to the courses of study for the recognised certificate will be complied with, section 92 of the Act requires that the Board have regard to:

- the record (if any) of achievement of the students at the school in the courses, and
- the standard of teaching of the courses at the school, and
- the facilities to be provided at the school for the courses.

A system of non-government schools must have in place a process for considering applications for initial accreditation. The information that a registered school must provide to the registration system in order to demonstrate the capacity to comply with the requirements of accreditation are detailed in section 8 of the Manual.

If the approved authority for the registration system is satisfied that the requirements for accreditation will be met the authority may submit a recommendation for initial accreditation to the Registration Committee of the Board. The Board of Studies Registration Committee,
under delegation from the Board, considers the authority’s recommendation and prepares a
written report to the Board including a recommendation as to whether or not the school
should be accredited. The recommendation is then dealt with in accordance with section 86
of the Act.

Initial accreditation of a registered non-government school is provisional. The maximum
period for which initial accreditation is granted is twelve (12) months.

### 2.7.3 Renewal of accreditation

The Board requires applications for renewal of accreditation to be made at least nine (9)
months before the existing school’s accreditation is due to expire or, at a later date decided
by the Board and communicated to the registration system authority in writing. The Board
requires applications for renewal of accreditation to include information demonstrating:
- whether or not the member school continues to satisfy the requirements for
  accreditation under section 47, and
- whether or not the member school has complied with the terms of the accreditation
  since it was granted.

Under section 78-87 of the Education Act the maximum period for which accreditation may
be renewed is five (5) years. Section 87 also provides for the period of accreditation to
correspond to the period of registration of a school, unless the Board considers it not
appropriate.

In considering whether the requirements of the Act relating to the courses of study for the
recognised certificate are being complied with, section 92 of the Act requires that the Board
have regard to:
- the record (if any) of achievement of the students at the school in the courses,
- the standard of teaching of the courses at the school, and
- the facilities provided at the school.

The requirements that registered member non-government schools must meet for
accreditation are detailed in section 7 of the Manual.

Section 87A of the Act makes provision for the Registration Committee, under delegation
from the Board of Studies, to reduce the accreditation period of the school and for the
school to be placed on provisional accreditation at any time before the expiry of the period
of accreditation of the school if the Board of Studies Registration Committee is not satisfied
that the member school is complying with the requirements for accreditation. If the member
school is placed on provisional accreditation, parents of students at the school must be
notified in writing by the school of the provisional accreditation status of the school and the
consequences of that accreditation status.

### 2.7.4 Failure to meet the requirements of accreditation

In cases where the Registration Committee, under delegation from the Board of Studies, is
not satisfied that the requirements for accreditation are being met, the Board's Registration
Committee may reduce a school’s period of accreditation in accordance with section 87A of
the Act. This process is detailed in section 4.5.4 of the Manual.

However, where the Registration Committee of the Board of Studies is satisfied that the
accreditation requirements are not being met, there is a power to cancel the accreditation of
a non-government school under section 91 of the Act. This process is detailed in section 10.2 of the Manual.

2.7.5 Cancellation of accreditation

Under section 91 of the Act, the Board may cancel the accreditation of a non-government school by written notice given to the approved authority for the registration system.

The Board may not do so unless the Board is satisfied that the requirements relating to accreditation are not being complied with at the member non-government school.

Any such notice to cancel the accreditation of a member non-government school has no effect:

(a) until thirty (30) days have elapsed since the giving of the notice, or
(b) if an application for a review of the decision has been made to the Administrative Decisions Tribunal within those thirty (30) days, unless (and until such time as) the Tribunal has confirmed the decision or the application has been withdrawn.

2.8 Conducting a school that is not accredited

It is an offence under section 93 of the Act to conduct or knowingly permit or assist in the conduct of a school for the education of candidates for the Record of School Achievement or the Higher School Certificate if the school is not accredited. The Act requires that a secondary school that is not accredited to enter candidates for the award of the Record of School Achievement notify parents of students in writing each year that students who complete their Year 10 course at that school will not be eligible for a Record of School Achievement.

Penalties apply to persons who conduct schools for the education of students who are candidates for one of the above certificates where the school is not accredited.
3 Requirements for Forming a New System of Non-government Schools

Twenty or more registered or proposed non-government schools (or a number less than 20 but greater than 10 as the Minister approves in special circumstances on the recommendation of the Board) may seek approval from the Minister to form a system of non-government schools for the purposes of this Act.

3.1 The approved authority for the proposed system of non-government schools

In applying for approval to form a system of non-government schools, the proposed system of non-government schools must identify an authority. The authority is the person or body who or which is appointed for the time being by:

- the proprietor or proprietors of the non-government schools,
- or
- the person or persons who propose to establish the non-government school system, to act on their behalf in relation to the proposed system.

The authority for a proposed system of non-government schools seeking approval to be formed under the Education Act must provide evidence that:

- either the authority is one of the types of legal entity approved by the Minister or individual member schools of the proposed system are/will be one of the types of legal entity approved by the Minister and
- a legally binding relationship exists/will exist between the authority and proposed member schools that allows/will allow the authority to comply with its obligations under the Act.

3.2 Monitoring compliance

Proposed new systems of non-government schools must describe the manner in which it is proposed that compliance with the requirements for registration of member schools under Part 3 of the Education Act and, if applicable, for accreditation of member schools under Part 8 of the Act will be monitored. The description must include:

- information as to how compliance of each member school will be monitored in relation to:
  - the registration requirements
  - accreditation requirements, if applicable
- how determinations will be made in relation to recommendations for renewal of registrations/exemption from registration and, if applicable, accreditation
- the manner in which the proposed system will determine whether proposed new schools or established schools that join the proposed system will be recommended for
  - initial registration
  - initial exemption from registration
  - initial accreditation
• the process the proposed system will use to conduct an internal review in cases where there is a concern about compliance with the requirements for registration and/or accreditation
• the process by which the proposed system will provide assurance to the Board that member schools comply with the registration and, if applicable, accreditation requirements throughout their registration/accreditation period
• the process proposed to meet the requirements for
  – notification and disclosures under the Act
  – changes in circumstances of the operation of the system and its member schools.

Approval to operate as a system of non-government schools requires that an approved authority for the system monitor compliance with the Education Act of its member schools in the manner approved by the Minister. If an approved authority for a system of non-government schools proposes to change the manner in which compliance of member schools is monitored, the approved authority must seek Ministerial approval nine (9) months prior to the intended time for the proposed change to be implemented.
4 Requirements for a System of Non-government Schools

The approved authority for a system of non-government schools must meet the requirements of the Education Act. A number of different types of registration systems currently exist including those where individual member schools are operated and/or owned by a proprietor other than the approved authority for the system. This section of the Manual details the requirements that all approved system authorities must meet and the evidence of compliance in relation to those requirements. These requirements and the evidence of compliance relate to:

- the approved manner in which the approved authority monitors the compliance of member schools
- registration requirements of member schools
- provisional registration of member schools
- accreditation requirements of member schools
- provisional accreditation of member schools
- changes in circumstances of the operation of the registration system and member schools.

This section of the Manual also provides information related to:

- conducting a member school that is not registered and/or accredited
- concern about the monitoring procedures of a registration system.

4.1 Monitoring compliance of member schools by the approved authority for a registration system

In seeking approval to form a system of non-government schools, the approved authority for the registration system described the manner in which it intended to monitor compliance with the requirements for registration and, if appropriate, accreditation. It is the responsibility of the approved authority to monitor the compliance of member schools in the manner that has been approved by the Minister.

If the approved authority proposes to make changes to the manner in which compliance with the requirements for registration and, if applicable, accreditation are monitored, the Board of Studies requires a return to be provided to the Board seeking approval from the Minister nine (9) months before it is intended that any change be implemented.

Evidence of compliance

The approved authority for a registration system must apply to the Board seeking approval from the Minister for any proposed changes to the manner in which compliance with the requirements for registration and, if applicable, accreditation are monitored. Such an application must be made nine (9) months before it is intended that any change be implemented.
4.2 Registration requirements of member schools

All registered non-government schools must meet the requirements of the Education Act. Section 5 of the Manual details the requirements that all registered member non-government schools and all member non-government schools that are approved as exempt from registration must meet and the evidence of compliance that schools might maintain for the period of their registration.

The requirements and evidence of compliance for member schools relate to:
- proprietor and principal of the member school
- staff
- curriculum
- premises and buildings
- facilities
- safe and supportive environment
- discipline
- attendance
- management and operation of the member school
- educational and financial reporting.

Additional requirements apply to member schools that provide boarding facilities. These are detailed in section 5.11 of the Manual.

The maximum period for which registration may be renewed is five (5) years.

Evidence of compliance

The approved authority for a registration system must describe the process the authority has in place to monitor the compliance of member schools with the requirements for registration.

4.3 Provisional registration of member schools

4.3.1 Provisional registration for new schools

The Act requires that an application for registration of a new non-government school be made not later than 31 March in the calendar year before the year that the proposed proprietor, proprietor or approved system authority intends to commence operating the school. To comply with this requirement of the Act, the proposed proprietor, proprietor or approved authority for the system of non-government schools must forward an application for registration of a new school to the Board of Studies not later than 31 March in the calendar year before the year that the proposed proprietor, proprietor or approved authority intends to commence operation of the school (refer to section 9 of this Manual).

Newly registered non-government schools must meet the requirements of the Act upon commencement of operation.

It may not be possible for a proposed new member school to provide evidence of compliance with all sections of the Act prior to commencement. It is expected, however, that the applicant will provide evidence of policies and procedures that are appropriate to ensure compliance of the member school with the requirements of the Act should the application be
successful. If the application for provisional registration is successful, the new member school is required to meet all the requirements detailed in section 5 of this Manual and must, throughout its period of provisional registration, maintain evidence of compliance with those requirements.

The requirements for provisional registration of a new member non-government school and the evidence of capacity to comply with these requirements that an applicant seeking the provisional registration of a new member school needs to demonstrate are detailed in section 6 of this Manual. Any difference in the description of registration requirements in section 6 and those described in section 5 are only intended to take account of the fact that compliance with some requirements can only be demonstrated once the member school begins operation. In the event a difference occurs for any other reason, applicants should refer to section 5 of this Manual as these requirements take precedence.

The maximum period of provisional registration that can be granted to such member schools is twelve (12) months.

Evidence of compliance

The approved authority for a registration system must:

- make application to the Board of Studies for registration of any new member non-government school not later than 31 March in the calendar year before the year that the proposed proprietor, proprietor or approved authority intends to commence operation of the member school
- describe the process the proposed proprietor, proprietor or approved authority for the registration system has in place to determine the capacity of a proposed new member school to meet the requirements for provisional registration.

4.3.2 Provisional registration for schools joining a registration system

An application to register a registered non-government school that becomes a member of a registration system must be made by the school through the approved authority for the system within six (6) months of the school becoming a member of the system. The Act requires that the registration of the school be provisional and the maximum period of provisional registration that can be granted is twelve (12) months. This is despite the school being already registered when it becomes a member. Unless an application is made to register the school within six (6) months of it becoming a member of the registration system, the school ceases to be a member.

Provisional registration of schools joining a registration system allows the approved authority for the system to monitor the new member school’s compliance with the registration requirements as described in section 5 of the Manual. Following the approved authority’s determination of the school’s compliance with the registration requirements the approved authority may recommend that the new member school be granted full registration. This may occur at any time during the school’s provisional registration period.

Evidence of compliance

The approved authority for a registration system must describe the process the approved authority has in place to determine the compliance with the requirements for registration of registered schools applying to join the system.
4.3.3 Provisional registration for new Years of a member school

An application for registration from an approved authority for a system of non-government schools for a registered member school to add a new Year(s) of schooling must be made not later than 31 March in the calendar year before the year that the proprietor or approved authority intends to add the new Year(s).

The requirements of the Act must be met by the registered member non-government school upon commencement of the newly registered Year(s). It may not be possible for a registered school to provide evidence of compliance with all sections of the Act prior to commencement of the new Year(s). It is expected, however, that the member school will provide evidence of policies and procedures that are appropriate to ensure compliance of the member school with the requirements of the Act should the application be successful. If the application is successful the member school is granted provisional registration for the additional Year(s). The member school is required to meet all the requirements detailed in section 5 of this Manual and must, throughout its period of provisional registration, maintain evidence of compliance with those requirements.

The requirements for provisional registration of new Year(s) of schooling and the evidence of capacity to comply with these requirements that an applicant seeking provisional registration of new Year(s) needs to demonstrate are detailed in section 6 of this Manual. Any difference in the description of registration requirements in section 6 and those described in section 5 are only intended to take account of the fact that compliance with some requirements can only be demonstrated once the member school begins operation of the new Year(s). In the event a difference occurs for any other reason, applicants should refer to section 5 as these requirements take precedence.

The maximum period of provisional registration that may be granted for any new Year(s) of schooling is twelve (12) months.

Evidence of compliance

The approved authority for a registration system must:

- make application to the Board of Studies for registration of additional Year(s) of a registered non-government school not later than 31 March in the calendar year before the year that the proprietor or approved authority intends to commence operation of the Year(s)
- describe the process the proprietor or approved authority has in place to determine the capacity of a member school to meet the requirements for provisional registration for proposed new Year(s) of schooling.

4.3.4 Concern about compliance with the requirements for registration

In relation to registration, an approved authority for a system of non-government schools is responsible for considering any documentation provided by a member school and observations from a monitoring visit to the member school in order to form opinions about compliance with the requirements of the Act. When it is an authority’s judgement that there are concerns that the member school may not comply with the requirements, a representative of the approved authority for the registration system should discuss these concerns with the principal (or equivalent) and proprietor (where appropriate) and provide an opportunity to submit further evidence of compliance.
While the approved authority for a system of non-government schools formed under the Education Act may have requirements that apply to member schools that are beyond those of the Act, when making a determination as to whether there are concerns about compliance of a member school, the authority is required to consider only those requirements that relate to requirements of the Act.

If, following consideration of any further evidence of compliance the member school provides, the approved authority for the system of non-government schools continues to have concerns that the member school may not comply with requirements of the Education Act in relation to registration, the authority will prepare a report and forward it to the principal (or equivalent) and proprietor (where appropriate). The report must detail those registration requirements with which the authority has concerns that the member school may not comply and advise the member school that the recommendation to be forwarded to the Registration Committee of the Board of Studies may be that the member school be placed on provisional registration until such time as the situation is resolved.

The principal (or equivalent) and proprietor (where appropriate) should be provided with the opportunity to make written comment directly to the approved authority for the system of non-government schools regarding the report. Following consideration of the report and any written comment from the principal (or equivalent) and proprietor (where appropriate), a further determination will be made as to whether the approved authority intends to make a recommendation to the Registration Committee of the Board that the member school be placed on provisional registration.

The principal (or equivalent) and proprietor (where appropriate) will be informed in writing of the intention to recommend that the member school be placed on provisional registration. The principal (or equivalent) and proprietor (where appropriate) may seek an internal review of the approved authority’s determination. The internal review will be carried out by the approved authority using persons not involved in the initial assessment of the member school’s compliance with the requirements for registration.

If the approved authority for the system of non-government schools, following an internal review conducted by the system, is satisfied that there are concerns as to whether the school is complying with the requirements of the Education Act in relation to registration, the approved authority may recommend to the Registration Committee of the Board of Studies that the member school be placed on provisional registration. If the Registration Committee of the Board is satisfied that there are concerns as to whether the member school is complying with the requirements of the Education Act in relation to registration, the Board of Studies Registration Committee, under delegation, may recommend to the Minister that the member school be placed on provisional registration.

In these circumstances, under the Act, the Minister may issue a certificate of provisional registration for the member school that specifies the period of provisional registration. This may mean that the period of registration of the member school is reduced. If the member school is placed on provisional registration, parents of students at the member school must be notified in writing by the school of the provisional registration status of the member school and the consequences of that registration status.

If, at the end of this or any further periods of provisional registration, any time, the requirements of the Education Act in relation to registration are found not to be complied
with, the Board’s Registration Committee, under delegation, or, following any internal review by a Board Inspector, the Board, will recommend to the Minister that the registration of a member non-government school be cancelled (refer to section 11.2 of the Manual).

Evidence of compliance

The approved authority for a registration system must have in place a process, based on procedural fairness, for making a recommendation that a member school be placed on provisional registration. This must include a process of internal review by a person or body not substantially involved in making the original recommendation.

4.4 Accreditation requirements of member schools

Registered non-government schools that are accredited must meet curriculum requirements that are additional to those detailed in section 5.3 of this Manual.

Accreditation for Years 7 to 10 enables students to be entered as candidates for the Record of School Achievement. Accreditation for Years 11 to 12 enables students to be entered as candidates for the Higher School Certificate.

Section 7 of this Manual details the requirements that all accredited schools must meet and the evidence of compliance that member schools must maintain for the period of their accreditation. The requirements and the evidence of compliance for member schools relate to:
- the curriculum for the Record of School Achievement
- the curriculum for the Higher School Certificate
- the quality of the education program.

The Act makes provision for the requirements for the Record of School Achievement and the Higher School Certificate to be prescribed by Regulations developed by the Board of Studies. These requirements are outlined in the Board of Studies Assessment Certification Examination (ACE) website. Section 94 of the Act makes provision for the Board to prescribe requirements for the granting of the Record of School Achievement to students. Section 95 makes provision for the Board to prescribe requirements for the granting of the Higher School Certificate to students.

The maximum period for which accreditation may be renewed is five (5) years.

Evidence of compliance

The approved authority for a registration system must describe the process the authority has in place to monitor the compliance of member schools with the requirements for accreditation.

4.5 Provisional accreditation of member schools

4.5.1 Provisional accreditation for new schools

The Board of Studies requires that an application for accreditation of a new non-government school or an application from an established registered school that intends to become accredited be made not later than 31 March in the calendar year before the year that the proposed proprietor, proprietor or approved system authority intends to commence
operating the school. To comply with this requirement of the Act, the proposed proprietor, proprietor or approved system authority must forward an application for accreditation of a new school to the Board of Studies not later than 31 March in the calendar year before the year that the proposed proprietor, proprietor or approved system authority intends to commence operation of the school (refer to section 9 of this Manual).

New accredited member non-government schools must meet the requirements of the Act upon commencement of operation.

It may not be possible for a proposed new member school to provide evidence of compliance with all sections of the Act relating to the Record of School Achievement and/or Higher School Certificate prior to commencement. It is expected, however, that the applicant will provide evidence of policies and procedures that are appropriate to ensure compliance of the school with the requirements of the Act should the application be successful. If the application for provisional accreditation is successful, the new school is required to meet all the requirements detailed in section 7 of this Manual and must, throughout its period of provisional accreditation, maintain evidence of compliance with those requirements.

The requirements for provisional accreditation of a new non-government school and the evidence of capacity to comply with these requirements that an applicant seeking provisional accreditation needs to demonstrate are detailed in section 8 of this Manual. Any difference in the description of accreditation requirements in section 8 and those described in section 7 are only intended to take account of the fact that compliance with some requirements can only be demonstrated once the school begins operation. In the event a difference occurs for any other reason, applicants should refer to section 7 of this Manual as those requirements take precedence.

The maximum period of provisional accreditation that can be granted to such member schools is twelve (12) months.

**Evidence of compliance**

The approved authority for a registration system must:

- make application to the Board of Studies for accreditation of any new non-government school seeking accreditation not later than 31 March in the calendar year before the year that the proposed proprietor, proprietor or approved authority intends to commence operation
- describe the process the approved authority has in place to determine the capacity of a proposed new member school to meet the requirements for provisional accreditation.

The maximum period of provisional accreditation that can be granted to such schools is twelve (12) months.

### 4.5.2 Provisional accreditation for schools joining a registration system

An application to accredit a registered and accredited non-government school that becomes a member of an approved system of non-government schools must be made through the approved authority for the system within six (6) months of the school becoming a member of the system. The accreditation of such a school must be provisional and the maximum period of provisional accreditation that can be granted to such schools is twelve (12) months. This is despite the school being already accredited when it becomes a member.
Provisional accreditation of schools joining a registration system allows the system authority to monitor the new member school’s compliance with the accreditation requirements as described in section 7 of the Manual. Following the system’s determination of the school’s compliance with the accreditation requirements the system authority may recommend that the new member school be granted full accreditation. This may occur at any time during the school’s provisional accreditation period.

Evidence of compliance

The approved authority for a registration system must describe the process the approved authority has in place to determine the compliance of registered and accredited schools applying to join the system with the requirements for accreditation.

4.5.3 Provisional accreditation for new Years of a member school

An application for accreditation from the approved authority for a system of non-government schools for a member school to add a new Year(s) of schooling must be made not later than 31 March in the calendar year before the year that the proprietor or approved system authority intends to add the new Year(s).

The requirements of the Act must be met by the accredited member non-government school upon commencement of the newly accredited Year(s).

It may not be possible for an accredited member school to provide evidence of compliance with all sections of the Act prior to commencement of the new Year(s). It is expected, however, that the member school will provide evidence of policies and procedures that are appropriate to ensure compliance of the member school with the requirements of the Act should the application be successful. If the application is successful the member school is granted provisional accreditation for the additional Year(s). The member school is required to meet all the requirements detailed in section 7 of this Manual and must, throughout its period of provisional accreditation, maintain evidence of compliance with those requirements.

The requirements for provisional accreditation of new Year(s) of schooling and the evidence of capacity to comply with these requirements that an applicant seeking the provisional accreditation of new Year(s) needs to demonstrate are detailed in section 8 of this Manual. Any difference in the description of accreditation requirements in section 8 and those described in section 7 are only intended to take account of the fact that compliance with some requirements can only be demonstrated once the school begins operation of the new Year(s). In the event a difference occurs for any other reason, applicants should refer to section 7 as these requirements take precedence.

The maximum period of provisional accreditation that may be granted for any new Year(s) of schooling is twelve (12) months.

Evidence of compliance

The approved authority for a registration system must:
- make application to the Board of Studies for accreditation of additional Year(s) of a registered non-government school not later than 31 March in the calendar year before the year that the proprietor or approved authority intends to commence operation of the Year(s)
• describe the process the proprietor or approved authority has in place to determine the capacity of member schools to meet the requirements for provisional accreditation for proposed new Year(s) of schooling.

4.5.4 Concern about compliance with the requirements for accreditation

In relation to accreditation, an approved authority for a system of non-government schools is responsible for considering any documentation provided by a member school and observations from a monitoring visit to the member school in order to form opinions about compliance with the requirements of the Act relating to accreditation for the Record of School Achievement and/or Higher School Certificate. When it is an approved authority’s judgement that there are concerns that the member school may not comply with the requirements, a representative of the approved authority for the registration system should discuss these concerns with the principal (or equivalent) and proprietor (if appropriate) and provide an opportunity for the member school to provide further evidence of compliance.

If, following consideration of any further evidence of compliance the member school provides, the approved authority for the system of non-government schools continues to have concerns that the member school may not comply with requirements of the Education Act in relation to accreditation for the Record of School Achievement and/or Higher School Certificate, the authority will prepare a report to be forwarded to the principal (or equivalent) and proprietor (where appropriate). The report must detail those accreditation requirements with which the approved authority has concerns that the member school may not comply and advise the school that the recommendation to be forwarded to the Registration Committee of the Board of Studies may be that the member school be placed on provisional accreditation until such time as the situation is resolved.

The principal (or equivalent) and proprietor (where appropriate) should be provided with the opportunity to make written comment directly to the approved authority for the system of non-government schools regarding the report. Following consideration of the report and any written comment from the principal (or equivalent) and proprietor (where appropriate), a further determination will be made as to whether the approved authority intends to make a recommendation to the Registration Committee of the Board that the member school be placed on provisional accreditation.

The principal (or equivalent) and proprietor (where applicable) will be informed in writing of the intention to recommend that the member school be placed on provisional accreditation. The principal (or equivalent) and proprietor (where appropriate) may seek an internal review of the determination. The internal review will be carried out by the approved authority for the system of non-government schools using persons not involved in the initial assessment of the school’s compliance with the requirements for accreditation.

If the approved authority for the system of non-government schools, following an internal review conducted by the system, is satisfied that there are concerns as to whether the member school is complying with the requirements in relation to accreditation for the Record of School Achievement and/or Higher School Certificate, under the Act, the approved authority may recommend to the Registration Committee of the Board of Studies that the member school be placed on provisional accreditation. If the Registration Committee of the Board, under delegation, is satisfied that there are concerns as to whether
the member school is complying with the requirements of the Education Act in relation to accreditation, the Board may issue a certificate of provisional accreditation for the school that specifies the period of provisional accreditation.

This may mean that the period of accreditation of a member school has been reduced. If the member school is placed on provisional accreditation, parents of students at the member school must be notified in writing by the member school of the provisional accreditation status of the school and the consequences of that accreditation status.

If, at the end of the period of provisional accreditation at any time, the requirements of the Education Act in relation to accreditation are found not to be complied with, the Board of Studies Registration Committee, under delegation, or, following an internal review by a Board Inspector, the Board, will cancel the accreditation of a non-government school by giving written notice to the principal (or equivalent) and proprietor (where appropriate) of the member school (refer to section 11.2 of this Manual).

Evidence of compliance

The approved authority for a registration system must have in place a process, based on procedural fairness, for making a recommendation that a member school be placed on provisional accreditation. This must include a process of internal review by a person or body not substantially involved in making the original recommendation.

4.6 Changes in circumstances of the operation of member schools

The Act defines a ‘responsible person’ as:

(a) the proprietor of the school and, if the proprietor is a corporation, each director or person concerned in the management of the school, or

(b) a member of the governing body of the school, or

(c) the principal of the school.

Where the proprietor of a school is a corporation, persons concerned in the management of the school may include trustees.

Where the approved authority for a system of non-government schools formed under the Education Act has management responsibilities for member schools, ‘responsible persons’ are also those persons and/or bodies within that system who can direct the principal in relation to aspects of governance and management of the school upon which the Minister’s approval of the system pursuant to Part 7 Division 2 of the Act was based.

1 The Act requires that any person defined as a ‘responsible person’ under the Act (and any other person or body exercising similar functions in relation to the management and operation of the school) be of good character and be able to carry out their responsibilities in relation to the operation of the school. Specifically, the Act requires that the Board of Studies be notified if a person defined as a ‘responsible person’ under the Act:

- is convicted of an offence that is punishable by imprisonment for twelve (12) months or more,
• becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvency debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
• if the person is a corporation – is the subject of a winding up order or has had a controller or administrator appointed.

In the above circumstances the Act requires that the approved authority for a system of non-government schools notify the Board of Studies and at least one other 'responsible person' of the circumstances surrounding the conviction, bankruptcy, insolvency, winding up order or appointment of the controller or administrator as soon as practicable after it occurs. Notifications in relation to (1) are subject to the Board of Studies Privacy Management Plan. There is no notification requirement for the above if the person concerned ceases to be a 'responsible person'.

2 The Act also requires the Board of Studies be notified if a 'responsible person' becomes a mentally incapacitated person and becomes
• a patient at an institution because of that incapacity, or
• a protected person under the NSW Trustee and Guardian Act 2009.

Notifications in relation to (2) are subject to the Board of Studies Privacy Management Plan. There is no notification requirement for the above if the person concerned takes leave from the position or ceases to hold the position.

3 The Act requires that the Minister be notified if the school moves or is sold. To comply with this requirement the approved authority for a system of non-government schools is to notify the Board of Studies. Specifically:
(a) if a member school or part of a school proposes to move to new premises, written notice is to be given by the system authority to the Board at least three (3) months before relocation. This particularly relates to moving premises and buildings connected with the teaching of courses of study, the amenities for teachers and students participating in those courses of study and boarding facilities provided for students by the school
(b) if the legal entity that owns a registered non-government school is sold, written notice of the sale is to be given by the purchaser to the Board within seven (7) days of the completion of the sale.

For the purposes of this section of the Act, relocation or new premises means any site where the street address of that site is different to, or in addition to, the street address at which the school is currently registered on the Certificate of Registration.

4 The Act also makes provision for the approved authority for a system of non-government schools to provide returns to the Board. Specifically, the approved authority must provide returns to the Board of Studies concerning the requirements for registration in relation to the school in a form, and at the times, approved by the Board for that purpose. The Board requires notification in relation to changes to certain aspects of the operation of member schools in relation to registration.
Evidence of compliance

The approved authority for a registration system must describe the processes the authority has in place by which:

- the proprietor of member schools and, if the proprietor is a corporation, each director, trustee or person concerned in the management of the member school or schools,
- for approved authorities with management responsibilities for member schools, those persons and/or bodies within such a system who can direct the principal (or equivalent) in relation to aspects of governance and management of the school upon which the Minister’s approval of the system pursuant to Part 7 Division 2 of the Act was based,
- each member of the governing body of member schools, and
- the principal (or equivalent) of each member school

are informed of their responsibilities under the Act, any regulations under the Act and the Board of Studies requirements, including any duties of disclosure or notification.

The approved authority for a registration system must have in place a process for informing the Board as soon as practicable following a change in relation to:

- the name of the representative of the authority for the registration system
- the names and addresses of the member schools included as part of the approved system of non-government schools with specific reference to member schools that are new to the system and/or schools that have withdrawn from the system.

The approved authority for a registration system must provide, and document its process for providing, a return to the Board of Studies if, following an investigation by a relevant agency or authority, any member school or the approved authority, where the approved authority has management responsibilities for member schools, is formally notified in writing by that agency or authority of an alleged breach by the member school or approved authority of any the following legislation:

- Ombudsman Act 1974
- Commission for Children and Young People Act 1998
- Institute of Teachers Act 2004
- Disability Discrimination Act 1992
- Work Health and Safety Act 2011
- Environmental Planning and Assessment Act 1979
- Food Act 2003
- Explosives Act 2003
- Building Code of Australia.

Such notification must be provided to the Board within fourteen (14) working days of the formal notification of an alleged breach.

The approved authority for a registration system must provide, and document its process for providing, a return to the Board of Studies when changes occur to the member schools in relation to:

- management and operation of member schools
  - where a notification in relation to a ‘responsible person’ is required (see section 4.6(1) and (2) of this Manual)
– where there is an appointment of a new principal (or equivalent) the Board of Studies must be notified within one (1) month of such change(s) occurring. Where the approved authority has management responsibilities for member schools, notification could be made by the approved authority in an annual return to the Board at the beginning of each school year. Where, due to unforeseen circumstances, throughout a year a variation occurs to the information contained in an annual return from a registration system, for example a new principal is appointed, the approved authority must notify the Board of Studies within one (1) month of such change occurring.

– where the school has been sold, written notice is to be given by the purchaser to the Board of Studies within seven (7) days of completion of the sale.

– where the school’s proprietor changes for any other reason, written notice is to be given by the new proprietor to the Board of Studies within seven (7) days of the change.

– where the school intends to change its name, written notice is to be given one (1) month prior to such change taking effect.

– where the school closes or ceases to operate (see section 2.5.9 of this Manual), written notice is to be given within one (1) month of the change.

• **staffing of a member school** – where there is a turnover of half or more of the teaching staff during any twelve (12) month period, the Board of Studies must be notified at the commencement of the next new term.

• **curriculum** – where a member school intends to deliver all or a significant part of students’ courses of study by means of distance education, the Board of Studies must be notified at least nine (9) months prior to the implementation of such a change. This excludes situations where a member school that does not normally deliver courses by means of distance education provides units of work/activities for a student who has been granted leave by the principal.

• **premises and buildings** – where a member school intends to
  – add another campus, written notice must be given to the Board of Studies by the approved authority at least three (3) months prior to the implementation of such a change.
  – move to a new site, written notice must be given to the Board of Studies by the approved authority three (3) months prior to the relocation.
  – relocate the boarding facilities on the member school site or move the facilities to a new site, written notice must be given to the Board of Studies by the approved authority three (3) months prior to the relocation.
  – close or cease operating a campus (see section 2.5.9 of this Manual), written notice must be given to the Board of Studies by the approved authority within one (1) month of such a change.

### 4.7 Conducting a school that is not registered and/or accredited

Under section 65 of the Act a person must not conduct or knowingly permit or assist in the conduct of a school (other than a government school) for the education of children of compulsory school-age unless the school is registered.
A person who conducts a school (other than a government school) for the education of children of compulsory school-age, being a school that is not or ceases to be registered under this Part of the Act, must, as soon as practicable, notify the parents of those children in writing that the school is not registered.

Under section 93 of the Act a person must not conduct or knowingly permit or assist in the conduct of a school (other than a government school) for the education of candidates for the Record of School Achievement or Higher School Certificate unless the school is accredited to present candidates for those credentials.

A person who conducts a school (other than a government school) for the education of candidates for the Record of School Achievement or Higher School Certificate, being a school that is not or ceases to be accredited to present those candidates for that award, must, as soon as practicable, notify the parents of those children in writing that the school is not accredited.

### 4.8 Concern about the monitoring procedures of a registration system

In relation to a system of non-government schools it is the responsibility of the Board of Studies to provide advice to the Minister in connection with the exercise of the Minister’s functions. In providing such advice, Inspectors from the Board of Studies consider any documentation provided by the approved authority for the system of non-government schools and observations from visits to member school(s) in order to form opinions about the registration system’s compliance with the requirements of the Education Act in relation to monitoring the registration and (if appropriate) the accreditation requirements. When it is an Inspector’s judgement that there are concerns that the system may not comply with the requirements of the Act, the Inspector should discuss these concerns with the approved authority’s representative and provide an opportunity for the approved authority to provide further evidence of compliance.

If, following consideration of any further evidence of compliance the approved authority for the system of non-government schools provides, the Inspector continues to have concerns that the system may not comply with requirements of the Act in relation to monitoring the registration and (if appropriate) the accreditation requirements, the Inspector will prepare a report to be submitted to the Registration Committee of the Board of Studies that includes advice that approval to operate as a registration system be withdrawn.

Where advice is provided by the Inspector to the Registration Committee of the Board of Studies to withdraw the approval of a system of non-government schools, the Registration Committee of the Board of Studies, under delegation, should give written notice to the approved authority for the system of non-government schools detailing those areas with which, in the opinion of the Inspector, there are concerns that the system may not comply.

The approved authority’s representative should be provided with the opportunity to make written comment directly to the Registration Committee of the Board of Studies regarding the advice of the Inspector. Following consideration of the Inspector’s advice, and any written comment from the representative of the approved authority for the registration system, the Registration Committee of the Board of Studies, under delegation, will
determine whether it intends to make a recommendation to the Minister that approval of the system be withdrawn. The approved authority will be informed in writing of the Board of Studies Registration Committee’s intention to recommend to the Minister that approval of the registration system be withdrawn. The approved authority may seek a review of the decision (refer to section 11.1 of this Manual).

If the Registration Committee of the Board of Studies or, following an internal review, the Board, is satisfied that the registration system is not complying with the requirements of the Education Act, the Registration Committee of the Board of Studies, under delegation, or the Board may recommend to the Minister that approval of the system be withdrawn.

There is no recourse to the Administrative Decisions Tribunal against the recommendations made by the Registration Committee of the Board of Studies, under delegation, or the Board, following an internal review, or in relation to a decision by the Minister to refuse or withdraw approval of a system of non-government schools.
5 Registration Requirements for Member Schools

Registered non-government schools must meet the requirements of the Education Act. This section of the Manual details the requirements that all registered non-government schools and non-government schools approved as exempt from registration must meet. It also states the evidence of compliance that schools must maintain during any period of their registration. The requirements and evidence of compliance relate to:

- the proprietor and principal of the school
- staff
- curriculum
- premises and buildings
- facilities
- safe and supportive environment
- discipline
- attendance
- management and operation of the school
- educational and financial reporting.

Additional requirements apply to schools with boarding facilities. These are detailed in section 5.11 of this Manual. The maximum period for which registration may be renewed is five (5) years.

5.1 Proprietor and principal of the school

The proprietor of an individual registered non-government school must be a corporation or other form of legal entity approved by the Minister to be a proprietor of a non-government school.

A legal entity is an individual or organisation that is legally permitted to enter into a contract and be accountable for its contractual obligations. Forms of legal entities, other than a corporation, approved by the Minister to be the proprietor of an individual registered non-government school are registered companies and trusts including religious bodies. While an individual person has legal status as a 'natural person', an individual is not a legal entity approved by the Minister to be the proprietor of a registered non-government school.

In relation to registration/accreditation procedures, the Act defines the proprietor as the legal entity designated in the school’s certificate of registration. The Act defines the principal as including an acting principal of the school. The Board distinguishes between the roles and responsibilities of the proprietor and the principal (or equivalent) as follows:

- The proprietor is the legal entity that owns the school. The role of the proprietor is primarily concerned with the governance of the school, including such matters as long-term financial planning, administrative policies and accountability.
- The role of the principal is as delegated by the proprietor or governing body. Usually, the principal is responsible for the management, day-to-day functioning and routine operations of the school. The principal's responsibilities also often include such aspects as the school’s operation, curriculum implementation, teaching and learning programs, assessment, health and safety, student welfare, staff selection, supervision and
professional development, registers of enrolment and daily attendance, maintenance of buildings, and management of facilities, resources and equipment.

The roles of proprietor and principal may be carried out by one or more people.

Where a school has no principal, section 129 of the Education Act provides that:

- any notice required or permitted to be given by or under this Act to the principal of the school, if given to any of the teachers at the school, is to be taken to have been given to every teacher at the school, and
- an obligation imposed by or under this Act on the principal is to be taken to be an obligation imposed on every teacher at the school, but which may be discharged by any one of them on behalf of them all.

**Evidence of compliance**

This requirement relates to individual non-government schools rather than a registration system’s authority/proprietor or member schools of a system formed under the Education Act. However, pursuant to Part 7, Division 2 of the Act, the Minister requires equivalent provisions for system authorities/proprietors/member schools of a system. The Minister's approval for an existing or new registration system is subject to the approved authority for a system of non-government schools formed under the Education Act providing evidence that:

- either the approved authority is one of the types of legal entity approved by the Minister or the proprietor of each individual member non-government school of the system is one of the types of legal entity approved by the Minister and
- a legally binding relationship exists between the approved authority and member schools that allows the approved authority to comply with its obligations under the Act.

### 5.2 Staff

#### 5.2.1 Teaching staff of a registered non-government school must have the necessary experience and qualifications (having regard to accreditation under the Institute of Teachers Act 2004 but without limiting such other matters as may be relevant)

The NSW Institute of Teachers was set up under the *Institute of Teachers Act 2004* to oversee a system of accreditation and recognition of teachers’ professional capacity against professional standards. Information about the Institute, professional standards and teacher accreditation can be viewed on the Institute’s website www.nswteachers.nsw.edu.au.

The teaching staff of a non-government school must have the necessary experience and qualifications having regard to accreditation under the *Institute of Teachers Act 2004*.

In assessing a school’s compliance with this registration requirement the holistic capacity of a school’s teaching staff to deliver the curriculum for which the school is registered will also be considered by the Board.

Relevantly to the Board’s requirements, section 3A of the *Institute of Teachers Act 2004* defines ‘teach’ and ‘teacher’ as follows:

(1) ‘teach’ means to undertake duties in a school that include (but are not limited to):
(a) the direct delivery of courses of study that are designed to implement the curriculum and the responsibility for assessing student participation, performance and progress in those courses,

(2) a reference in this section to undertaking duties in a school is a reference to undertaking duties on the premises of a school in the course of providing services conducted by the school.

(3) ‘teacher’ means a person who is, or is to be, employed to undertake any duties referred to in subsection (1) (whether or not the person undertakes any other duties).

Section 3 of the Institute of Teachers Act 2004 defines ‘curriculum’ as the curriculum for primary or secondary schools determined by the Board of Studies in accordance with the Education Act 1990.

To meet the requirements of the Institute of Teachers Act 2004, ‘teachers’ (as defined by the Institute of Teachers Act 2004) employed by registered non-government schools must fall into one of the following three categories:

(i) having teacher education qualifications from a higher education institution within Australia or as recognised within the National Office of Overseas Skills Recognition (AEI-NOOSR) guidelines, or

(ii) having a bachelor degree from a higher education institution within Australia or one recognised within the AEI-NOOSR guidelines but lacking formal teacher education qualifications, or

(iii) not having qualifications as described in (i) or (ii) but having relevant successful teaching experience or appropriate knowledge relevant to the teaching context. Such ‘teachers’ must have been employed to ‘teach’ in NSW before 1 October 2004 (either on a permanent, casual or temporary basis), and as a ‘teacher’ during the last five (5) years in a permanent, casual or temporary capacity have approval from the NSW Institute of Teachers to extend the period during which an approved teaching qualification may be obtained.

In addition, teachers in category (iii) are required to:

(a) be accredited as transition scheme teachers under the Institute of Teachers Act 2004 and have their details lodged with the Institute (note that this could only occur in 2005);

(b) be under the direct, on-site supervision of staff at the same school who hold teacher education qualifications from a recognised education institution within Australia or one recognised within the AEI-NOOSR guidelines; and

(c) meet the requirements for teacher accreditation at the level of professional competence in the seven year time period specified by the Institute of Teachers Act 2004.

Evidence of compliance

A registered non-government school must document:

- copies of qualifications used to determine the suitability of each teacher it has employed and, where relevant, copies of Institute of Teachers accreditation documentation

- the program of study that meets the requirements of the NSW Institute of Teachers being undertaken by each teacher in category (iii) above, the qualification(s) of the supervisor(s) and the role of that/those supervisor(s)
details, including the qualifications and teaching experience, of all part-time and full-time teaching staff

the school’s plan for providing alternate qualified teaching staff in the event that regular teaching staff are unavailable.

5.2.2 For students approved by the school to study individual courses through an outside tutor, the principal must have taken all reasonable steps to ensure that each tutor has the capacity to teach the course and is a suitable person to work with children.

Registered schools may access outside tutors to deliver courses of study to students enrolled at the school. An outside tutor is any person, other than a teaching staff member of the school, whom the school has approved to deliver a specified course of study that is part of the curriculum as described by Parts 1, 3, 7 and 8 of the Education Act to a student or students enrolled in the school. The delivery of such a course may take place on school premises or at premises other than the school’s premises. The outside tutor may deliver the course to students during or outside school hours.

Persons employed by the school as casual teachers, or persons who provide specialist expertise for part of a course that is under the supervision of a teaching staff member who has responsibility for teaching the course at the school, are not considered outside tutors.

Registered and accredited schools providing courses of study that are delivered by an outside tutor for the Record of School Achievement and/or Higher School Certificate should refer to section 7.3.2 of the Manual.

Evidence of compliance

A registered non-government school must have guidelines that outline the process used by the school to:

- verify an outside tutor’s capacity to teach a course
- ensure that in accessing any outside tutor the school continues to comply with the mandatory employment requirements under the Commission for Children and Young People Act 1998 (NSW) (until such time as the provisions of the Child Protection (Working with Children) Act 2012 are commenced, at which time the latter provisions are to apply instead)
- ensure that the school, if accredited, continues to comply with the requirements of the ACEAssessment Certification Examination (ACE) website for approved study with an outside tutor.

For each outside tutor approved by a school to conduct individual courses of study with students, the school must maintain documentation that records:

- evidence that originals of the outside tutor’s qualifications and/or evidence of relevant experience and/or expertise have been seen by the principal (or equivalent) or the principal’s (or equivalent’s) authorised delegate
- evidence that the school has sought and obtained satisfactory reports from referees concerning the outside tutor’s suitability as an outside tutor
- details of the process undertaken by the school to verify the outside tutor’s capacity to teach the course and the outcome of that process
• a signed and dated declaration by the principal (or equivalent) or an appropriate person with the principal’s (or equivalent’s) delegated authority that a satisfactory screening process has been undertaken under the Commission for Children and Young People Act 1998 in relation to the outside tutor and the outcome of that process (until such time as the provisions of the Child Protection (Working with Children) Act 2012 are commenced, at which time the latter provisions are to apply instead)

• the procedures in place to ensure that curriculum requirements are being met and will continue to be met for the course(s) of study delivered by the outside tutor.

The use of an outside tutor does not abrogate the school’s obligation to ensure that all of the registration requirements that are relevant to that mode of delivery are met.

5.2.3 A registered non-government school’s educational program may include outsourcing of particular courses/subjects to one or more external providers, provided that:

• the school remains primarily responsible for the student

• the courses outsourced comprise a minority of each student’s overall pattern of study (except with Board approval).

An external provider is any organisation that the school has arranged to deliver a specified course of study that is part of the curriculum as described by Parts 1, 3, 7 and 8 of the Education Act to a student or students enrolled at the school. The delivery of such a course may take place on school premises or elsewhere.

Registered schools may access external providers to deliver courses of study to students enrolled at the school. For registered non-government primary schools and secondary schools and non-government schools approved as exempt from registration, external providers may include:

• another registered school

• a government school including
  – the Open High School
  – Distance Education Centres
  – Open Training and Education Network (OTEN)
  – Saturday School of Community Languages

• TAFE Colleges

• Registered Training Organisations (RTOs)

• other external providers with appropriate scope of registration, qualifications and expertise.

The registered school needs to ensure that the courses outsourced comprise a minority of each student’s overall pattern of study for each Stage of learning (except with Board approval to outsource more than a minority of courses for a student or group of students).

In exceptional circumstances, as determined by the Board, the Board may approve of a non-government school outsourcing more than a minority of courses from an overall pattern of study for an individual student or a group of students where the school considers it necessary to provide an appropriate educational program. In seeking Board approval, the school would need to provide to the Board documentation to:

• describe the exceptional circumstances
- explain the educational program and how it meets the needs of the student(s)
- identify the external provider
- identify the courses that are intended to be outsourced
- provide assurance that all other requirements for registration would be met including the school maintaining primary responsibility for the student(s).

Registered and accredited secondary schools providing outsourced courses of study for the Record of School Achievement and/or Higher School Certificate through external providers should refer to section 5.3.2 of the Manual.

**Evidence of compliance**

A registered non-government school must maintain documentation that records:
- that any external provider accessed by the school complies with the *Commission for Children and Young People Act 1998* in relation to each person directly involved in the delivery of an outsourced course *(until such time as the provisions of the Child Protection (Working with Children) Act 2012 are commenced, at which time the latter provisions are to apply instead)*
- the student(s) undertaking the course(s)
- the suitability of the external provider(s) accessed by the school to deliver the course(s), including, where relevant, evidence of certification of the provider(s) by appropriate agencies
- the agreement with each external provider including identification of the respective responsibilities of the school and the provider
- the procedures in place to ensure that the requirements are being met and will continue to be met for the course(s) of study delivered by each external provider.

For each student undertaking one or more courses that have been outsourced to an external provider accessed by the school, the school must maintain records to demonstrate that the outsourced courses comprise a minority of each student’s overall pattern of study for each Stage of learning, unless the Board’s approval has been obtained to outsource more than a minority of each student’s overall pattern of study.

The use of an external provider does not abrogate the school’s obligation to ensure that all of the registration requirements that are relevant to that mode of delivery are met.

### 5.3 Curriculum

#### 5.3.1 The curriculum, including curriculum outcomes, provided by a registered non-government school must comply with the requirements set out in Part 3 of the Act relating to:

(i) in the case of a school providing primary education – the minimum curriculum for a school providing primary education, or
(ii) in the case of a school providing secondary education for children during Year 7 to Year 10 – the minimum curriculum for a school providing any such secondary education, or
(iii) in the case of a school providing secondary education for children during Year 11 and Year 12 – the curriculum for students who are candidates for the Higher School Certificate.
5.3.1.1 Primary schools

Registered non-government primary schools will have:

- an educational program based on, and taught in accordance with, the outcomes of Board of Studies syllabuses for the six key learning areas (KLAs) of primary education
  - English
  - Mathematics
  - Science and Technology
  - Human Society and Its Environment
  - Creative Arts
  - Personal Development, Health and Physical Education
- courses of study in each of the six KLAs for each child during each Year
- courses of study that are appropriate for the children concerned having regard to their level of achievement and needs
- courses of study in accordance with any relevant guidelines developed by the Board and approved by the Minister.

Evidence of compliance

A registered non-government primary school must maintain documentation for each calendar year of the current registration period that includes:

- timetables for each Year/class showing the allocation of time and teachers for each KLA
- an overview of the school’s educational program indicating
  - the scope and sequence of learning/units of work in relation to outcomes of the Board of Studies syllabus for each KLA for each Year
  - resources and equipment available for each KLA
  - an assessment plan indicating how students’ performance in each KLA is assessed, monitored and recorded
- an overview of the process for reporting student achievement.

For each calendar year, the school must maintain for each Year/class, until the end of that calendar year:

- teaching programs for each unit of work that correspond to those identified in the scope and sequence of learning/units of work
- samples of student work that relate to the teaching program for that year.

5.3.1.2 Secondary schools providing education for children during Year 7 to Year 10

Registered non-government secondary schools will have:

- an educational program based on, and taught in accordance with, the outcomes of Board of Studies syllabuses for Years 7–10
- courses of study for each child in at least six of the eight key learning areas (KLAs) of secondary education
  - English
  - Mathematics
  - Science
  - Human Society and Its Environment
  - Languages
courses of study for each child during each Year in
- English
- Mathematics
- Science
- Human Society and Its Environment

- courses of study that are appropriate for the children concerned having regard to their level of achievement and needs
- courses of study in accordance with any relevant guidelines developed by the Board and approved by the Minister.

The syllabuses on which the education program of a registered school must be based in order to meet the above requirements are specified on the Board’s website www.boardofstudies.nsw.edu.au.

A secondary school that is registered but not accredited to enter candidates for the Record of School Achievement must notify parents of students in writing each year that students who complete their Year 10 course at that school will not be eligible for a Record of School Achievement. It must also inform parents of the consequences for potential candidates for that credential of the school not being accredited.

Registered non-government schools seeking accreditation must meet the additional curriculum requirements outlined in section 7 of this Manual.

Evidence of compliance

A registered non-government secondary school must maintain documentation for each calendar year of the current registration period that includes:
- timetables for each Year/class showing the allocation of time and teachers for each KLA
- an overview of the school’s educational program indicating
  - the scope and sequence of learning/units of work in relation to the outcomes of the Board of Studies syllabuses for each KLA for each Year
  - resources and equipment available for each KLA
  - an assessment plan indicating how students’ performance in each KLA is assessed, monitored and recorded
- an overview of the process for reporting student achievement
- evidence that the school, if registered or exempt from registration only, informs parents of students in writing each year that the school is not eligible to enter candidates for the award of the Record of School Achievement and indicates the consequences for potential candidates for that credential of the school not being accredited.

For each calendar year, the school must maintain for each Year/class, until the end of that calendar year:
- teaching programs for each unit of work that correspond to those identified in the scope and sequence of learning/units of work
- samples of student work that relate to the teaching program for that year.
5.3.1.3 Secondary schools providing education for children during Year 11 to Year 12

Schools that provide secondary education for Years 11 and 12 must be both registered and accredited. Such schools, therefore, must comply with the curriculum requirements set out in Part 8 section 12 of the Act that relate to the curriculum for students who are candidates for the Higher School Certificate (refer to section 5.2 of this Manual).

Schools registered for Years 11 and 12 must deliver:
- an educational program based on, and taught in accordance with, the outcomes of Board of Studies syllabuses for Stage 6
- courses of study that include a course of study in English
- courses of study for each student each year that comply with a pattern of study for Year 11 and Year 12 as described on the ACE website for candidates for the Higher School Certificate (ACE 8005).

A secondary school that is registered for Years 11 and 12 but not accredited to enter candidates for the Higher School Certificate must notify parents of students in writing each year:
- that the school is not accredited to present candidates for the Higher School Certificate
- as a consequence, that students who complete their Year 12 course at the school will not be eligible for a Higher School Certificate.

Schools that are registered and also accredited for courses leading to the award of the Higher School Certificate, must also comply with the curriculum requirements set out in Part 8 of the Education Act that relate to the curriculum for students who are candidates for the Higher School Certificate (refer to section 5.2 of the Manual).

Evidence of compliance

A non-government secondary school registered for Years 11 and 12 must maintain documentation for each calendar year of the current registration period that includes:
- timetables for each Year/class showing the allocation of time and teachers for each course
- an overview of the school’s educational program indicating
  - the scope and sequence of learning/units of work in relation to the outcomes of the Board of Studies syllabuses for each course for each Year
  - resources and equipment available for each course of study
  - an assessment plan indicating how students’ performance in each course is assessed, monitored and recorded
- an overview of the process for reporting student achievement
- evidence that the school, if registered or exempt from registration only, informs parents of students in writing each year that the school is not eligible to enter candidates for the Higher School Certificate and indicates the consequences for potential candidates for that credential of the school not being accredited.

For each calendar year, the school must maintain for each Year/class, until the end of that calendar year:
• teaching programs for each unit of work that correspond to those identified in the scope and sequence of learning/units of work
• samples of student work that relate to the teaching program for that year.

5.3.2 The Board of Studies may approve modifications to part of a Board of Studies syllabus for use in a particular school as it considers necessary to enable any part of a key learning area, that appears to the Board to be incompatible with the educational philosophy or religious outlook of a registered non-government school, to be based on and taught compatibly with that educational philosophy or religious outlook.

Where a school considers that one or more of the outcomes of a Board of Studies syllabus are incompatible with the school’s educational philosophy or religious outlook for part of the school’s curriculum, the Act makes provision for the school to apply to the Board to use modified outcomes for that part of the syllabus. In these instances, the Board may grant approval for the use of modified outcomes for part of a syllabus by that school if the Board is satisfied that:

• the identified Board of Studies outcome(s) are incompatible with the educational philosophy and/or religious outlook of the school
• the proposed modified outcome(s) are compatible with the educational philosophy and/or religious outlook of the school
• the proposed modified outcome(s) comply with the curriculum guidelines developed by the Board and approved by the Minister.

Modifications approved under this provision of the Act are not permitted to the curriculum for the Record of School Achievement or Higher School Certificate.

A registered non-government school seeking approval to use modified outcomes for part of a Board syllabus must apply to the Board of Studies nine (9) months prior to the projected implementation date.

In the event that the Board is unable to approve a modification because of an inconsistency between the modification sought and the curriculum guidelines, the school may request a review of that aspect of the curriculum guidelines.

Evidence of compliance

Where the Board of Studies has approved the modification of an outcome(s) of a Board syllabus for a particular school, the registered non-government school must maintain documentation that records:

• the specific Board of Studies syllabus outcome(s) that have been modified
• the philosophical or religious reasons for modifying the Board syllabus outcome(s)
• the modified educational outcome(s) as approved by the Board
• how the modified outcome(s) approved by the Board comply with the curriculum guidelines developed by the Board and approved by the Minister.

In addition to the evidence of compliance required for section 5.3.1.1 and/or section 5.3.1.2 above, the school must also maintain documentation for each calendar year of the current registration period that includes:
• how the modified outcome(s) approved by the Board are appropriate to the level of achievement and needs of the students
• timetables for each Year/class showing the allocation of time for the modified outcome(s) approved by the Board
• the overview of the school’s educational program indicating where the modified outcome(s) approved by the Board occur in relation to the scope and sequence of learning/units of work referred to in section 5.3.1.1 and/or section 5.3.1.2 above
• resources and equipment allocated to the Board-approved modified outcome(s)
• an assessment plan indicating how student achievement of any modified outcome(s) approved by the Board are assessed, monitored and recorded.

5.3.3 A registered non-government school that has students undertaking all or a significant part of their courses of study by means of distance education must provide a curriculum, including curriculum outcomes, that accord with the requirements of Part 3 of the Act.

The Act makes provision for a school to deliver to its enrolled students all or a significant part of courses in distance education mode.

Distance education means the delivery of courses of study during which teachers and students enrolled in the school are not regularly in the presence of each other but communicate with each other in writing, by print or by electronic or other means. This excludes situations where a school that does not normally deliver courses by means of distance education provides, either in writing, by print or by electronic means:
• units of work/activities for a student who has been granted leave by the principal
• courses of study that its students access through an outside tutor or external provider.

Many schools use electronic means to enhance the courses of study provided by the school. This can include video-conferencing, online lessons hosted by another school and/or online interactions between cohorts in other schools to share data, debate or exchange views. A school would not be considered to be delivering distance education to its students if the teacher with prime responsibility for delivering the course of study was regularly in the presence of students and supplemented the teaching with a range of audiovisual aids.

Under the distance education provision, a school may deliver all or a significant part of courses from Kindergarten to Year 12 by means of distance education. When a registered non-government school delivers distance education to its students, the school must have in place policies and procedures that are appropriate to ensure the personal and social development of its students. These policies and procedures must include the provision of a minimum of fifteen (15) school days of ‘residential school’ sessions for all students undertaking a full-time distance education program (pro-rata for students undertaking a part-time program).

‘Residential school’ sessions are times when students and teachers are in the presence of each other at the same physical location undertaking learning activities related to the school’s education programs. ‘Residential school’ sessions are also used to supplement those aspects of the program that develop students’ personal and social skills. Additionally, students undertaking courses with practical components must be provided with additional...
‘residential school’ sessions to ensure that they have opportunities to achieve the course outcomes for practical work.

If a registered non-government member school intends to deliver all or a significant part of its students’ courses of study by means of distance education, the registration system must notify the Board of Studies nine (9) months prior to the implementation of such a change.

Evidence of compliance

In addition to the evidence of compliance required for section 5.3.1.1 and/or section 5.3.1.2 above, a registered non-government school delivering all or a significant part of the courses of study to its students by means of distance education must maintain documentation for each calendar year of the current registration period that includes:

- policies and procedures for authenticating student work
- guidelines for people such as family or community members who act as on-site supervisors of a student’s distance education work
- policies and procedures in relation to providing a minimum of fifteen (15) days of ‘residential school’ sessions each school year for each student undertaking all of their courses of study by distance education. The number of days of ‘residential school’ sessions provided for students undertaking less than a full program of study by means of distance education is to be calculated on a pro-rata basis
- policies and procedures in relation to providing additional ‘residential school’ sessions for students undertaking courses that include practical components
- policies and procedures in relation to teacher visits to students
- teaching programs, including specific details of all teaching and learning activities provided to students, for each distance education course offered
- the annual schedule for teaching programs and activities undertaken at ‘residential school’ sessions
- the annual schedule for additional ‘residential school’ sessions for courses that include practical components.

For each of its student undertaking all or a significant part of their courses by means of distance education the school must maintain documentation that records:

- learning progress in relation to syllabus outcomes
- attendance at ‘residential school’ sessions
- the mechanisms by which each student is able to interact with relevant teachers each week
- the dates of teacher visits to the student
- procedures for the formal supervision of students undertaking external examinations/tests.

5.3.4 A registered non-government school that provides education of a kind, or for children of a kind, must provide a curriculum to cater to the needs of its students.

Where a school is registered as providing education of a kind, or for children of a kind, the Act makes provision for the school to provide a specific curriculum to cater to the needs of its students.

A secondary school that is registered but not accredited to enter candidates for the Record of School Achievement must notify parents of students in writing each year that students
who compete their Year 10 course at that school will not be eligible for a Record of School Achievement. It must also inform parents of the consequences for potential candidates for that credential of the school not being accredited.

**Evidence of compliance**

Where the Minister has approved the registration of a non-government school as providing education of a kind, or for children of a kind, the non-government school must maintain documentation for each calendar year of its registration that includes:

- documentation to certify that each student undertaking such education is a foreign national or a child of a foreign national, or, a child of a kind as prescribed by the Regulations
- how the curriculum delivered by the school meets the needs of the students
- timetables for each Year/class showing the allocation of time and teachers for each learning area/course
- an overview of the school’s educational program indicating the scope and sequence of learning/units of work in relation to the outcomes for each learning area/course for each Year/class
  - resources and equipment available for each learning area/course
  - an assessment plan indicating how students’ performance in each learning area/course is assessed, monitored and recorded
- an overview of the process for reporting student achievement
- evidence that, if the school is a secondary school that is registered or exempt from registration only, the school informs parents of students in writing each year that the school is not eligible to enter candidates for the award of the Record of School Achievement and indicates the consequences for potential candidates for that credential of the school not being accredited.

For each calendar year, the school must maintain for each Year/class, until the end of that calendar year:

- teaching programs for each unit of work that correspond to those identified in the scope and sequence of learning/units of work
- samples of student work that relate to the teaching program for that year.

Where a non-government school is registered to provide education for children who are, or are the children of foreign nationals, the teaching staff must hold qualifications that are deemed appropriate by the relevant education authority (or equivalent) to teach the curriculum being delivered.

### 5.4 Premises and buildings

**A registered non-government school’s premises and buildings must be satisfactory.**

The premises and buildings of a registered non-government school must comply with:

- relevant council and government requirements
- work health and safety legislation and subordinate legislation
- environmental and land use guidelines.

In NSW, buildings need to meet the building standards operational at the time of the approval to build. In 1997, all states and territories gave the Building Code of Australia
(BCA) the status of building regulations. The BCA contains technical provisions for the

design and construction of buildings and other structures and covers such matters as fire

resistance, access and egress, services and equipment and aspects of health and amenity.

While the BCA applies to new buildings, proprietors and principals of schools have a

common law responsibility to ensure that older buildings are safe for educational purposes.

In a dispute regarding safety or the appropriateness of a building, guidance is often sought

by referring to the BCA. For older buildings, it is therefore advisable for the proprietor and

principal (or equivalent) of a school to refer to local government requirements with respect

to compliance with the relevant sections of the BCA.

Registered schools must be able to provide assurance that the premises and buildings are

satisfactory throughout any registration period.

Evidence of compliance

A registered non-government school must:

• maintain written evidence that all school premises and/or buildings comply with all

  relevant legislation

• have policies to assess and monitor the current standard and state of repair of the

  school's premises and buildings, making reference to current building requirements

• maintain details of annual fire safety assessments which comply with Part 9 Division 5

  of the Environmental Planning and Assessment Regulation 2000

• confirm that it has policies and procedures to meet the requirements of the Disability

  Discrimination Act 1992 in terms of the school's buildings and premises.

5.5 Facilities

A registered non-government school must have educational facilities that are adequate for

the courses of study provided by the school.

Typically school facilities include:

• general classrooms

• classrooms with facilities to support the delivery of particular courses

• computers with internet and other digital access

• a designated library area

• indoor open space

• indoor or outdoor recreational space.

Registered schools need to have processes in place that can assist them provide

assurance throughout their registration period that the educational facilities are adequate for

the courses of study and the number of students in each course.

Evidence of compliance

A registered non-government school must:

• identify the range of educational facilities required for each of the courses of study

  offered, taking into account the number of students undertaking each course, whether

  the facilities are provided on-site or off-site and the frequency of access to off-site

  facilities
assess and monitor the current standard and state of repair of facilities, taking into account the requirements of relevant legislation including the

- Explosives Act 2003
- Work Health and Safety Act 2011

5.6 Safe and supportive environment

5.6.1 A registered non-government school must have in place policies and procedures to ensure that it meets its legislative obligations in relation to child protection.

A number of Acts relate to child protection in New South Wales:

- the Commission for Children and Young People Act 1998 which established the Commission for Young People and made the Commission responsible for employment screening for people in child-related employment (until such time as the provisions of the Child Protection (Working with Children) Act 2012 are commenced, at which time the latter provisions are to apply instead)
- the Children and Young Persons (Care and Protection) Act 1998 which sets out the responsibilities of Community Services with regard to child protection [www.community.nsw.gov.au].

A registered non-government school has responsibilities responsible for knowing and complying with its obligations under each of these Acts.

Part 3A of the Ombudsman Act 1974 requires that designated government and non-government agencies must notify the Ombudsman of any allegation of reportable conduct or conviction related to reportable conduct against an employee. Non-government schools are included in designated non-government agencies. In addition to notifying the Ombudsman, the agency must also investigate the allegation or conviction and report the findings of such an investigation to the Ombudsman. The Ombudsman may also oversee and monitor the investigation of and the response by the heads of designated agencies to allegations of reportable conduct.

Part 7 of the Commission for Children and Young People Act 1998 deals with employment screening. It requires screening of all people commencing paid work that primarily involves direct and unsupervised contact with children. This screening process incorporates:

- a relevant national criminal record check
- a check of relevant Apprehended Violence Orders, and
- a review of relevant completed disciplinary proceedings the applicant may have been the subject of in previous employment.

Part 7 of the Act also imposes specific duties on employers in relation to relevant disciplinary proceedings. The Commission for Children and Young People must be notified of the outcome of completed disciplinary proceedings.

The Commission for Children and Young People Act 1998 also prescribes the responsibilities of the Commission and schools in relation to child-related employment.
The Children and Young Persons (Care and Protection) Act 1998 sets out the means by which Community Services and the Children’s Court can intervene to protect children and young persons from risk of harm. The Act mandates people in certain professions, such as teaching, and positions, such as management positions in schools, to report any case where they form the belief that a child or young person is at risk of harm.

Evidence of compliance

A registered non-government school must have in place and implement policies and procedures to:

- ensure that staff who have direct contact with students are informed of the legal responsibilities related to child protection, mandatory reporting and other relevant school expectations
- ensure that requirements to notify and investigate allegations of reportable conduct in compliance with the Ombudsman Act 1974 are made known to staff
- ensure that the school meets the employment screening and notification requirements of the Commission for Children and Young People Act 1998 (until such time as the provisions of the Child Protection (Working with Children) Act 2012 are commenced, at which time the latter provisions are to apply instead)
- ensure that all staff, volunteers, outside tutors and external providers are informed of their obligations under the Commission for Children and Young People Act 1998 (until such time as the provisions of the Child Protection (Working with Children) Act 2012 are commenced, at which time the latter provisions are to apply instead)
- respond to reportable matters in accordance with legislative requirements
- ensure that all staff who are mandatory reporters under the Children and Young Persons (Care and Protection) Act 1998 are informed of their obligations and the process that the school has in place in relation to mandatory reporting.

5.6.2 A registered non-government school must provide a safe and supportive environment by having in place policies and procedures that provide for student welfare.

Safe environment

A safe environment for students is one where the risk of harm is minimised and students feel secure. Harm relates not only to dangers in the built environment, involving such matters as architecture and construction, lighting, space, facilities and safety plans, but also refers to violence, physical threats, verbal abuse, threatening gestures, sexual harassment and racial vilification.

Supportive environment

A supportive environment fosters the social, academic, physical and emotional development of students. A supportive environment can be described as one in which:

- students are treated with respect and fairness by teachers, other staff and other students
- members of the school community feel valued
- effective teaching and learning takes place
- positive support and encouragement are provided by members of staff and students
non-discriminatory language and behavioural practices are defined, modelled and reinforced by members of the school community
consultation takes place on matters relating to students’ education and welfare.

Student welfare

Student welfare encompasses the mental, physical and emotional wellbeing of the student. Provisions for student attendance are integral to providing for student welfare. Student welfare policies and programs are essential for developing a sense of self-worth and fostering personal development. Student welfare could include:

- programs that the school provides to meet the personal, social and learning needs of the students
- effective discipline
- monitoring student attendance and strategies for improving unsatisfactory attendance
- early intervention programs for students at risk
- student, family and community support networks
- opportunities that the school provides for students to
  - enjoy success and recognition
  - make a useful contribution to the life of the school
  - derive enjoyment from their learning.

Evidence of compliance

A registered non-government school must have in place and implement policies and procedures in relation to:

- security, with specific reference to
  - students
  - buildings and facilities
  - evacuation procedures
- supervision, with specific reference to protocols and guidelines, including risk management, for students undertaking on-site and off-site activities
- codes of conduct for members of the school community, with specific reference to
  - rights and responsibilities of students and staff within the school community
  - behaviour management
  - anti-bullying, including contact information for School Liaison Police and/or Youth Liaison Officers and other support services that are available to the school community
  - the role of any student leadership system (or equivalent) in the school and the monitoring of the system
  - management and reporting of serious incidents and emergencies
- complaints or grievances, with specific reference to processes for raising and responding to matters of concern identified by students and/or parents
- pastoral care, with specific reference to
  - personnel responsible for pastoral care including access to counselling
  - identification of and provision of support for students with special needs
  - health and the distribution and monitoring of medication
  - response to serious incidents and emergencies
  - homework
• student attendance with specific reference to processes for monitoring attendance and strategies to improve unsatisfactory attendance
• communication, with specific reference to formal and informal mechanisms available between stakeholders interested in a student’s education and wellbeing.

While the title and scope of policies and procedures that a school has in place in relation to the above areas will vary depending on the school’s philosophy, ethos and practice, each of the above areas must be addressed within the totality of the school’s policies and procedures.

Where students are approved to study with an outside tutor or are undertaking courses/subjects with an external provider, the registered non-government school must have policies and procedures in place that are appropriate to ensure the safety and welfare of such students and to promote their personal and social development (see 5.6.3 of the Manual).

5.6.3 A registered non-government school must have policies and procedures that are appropriate to ensure the personal and social development of students who are undertaking all or a significant part of their courses of study by means of distance education.

The Act makes provision for students to undertake all or a significant part of their courses of study by means of distance education where the school has in place policies and procedures that are appropriate to ensure the personal and social development of its students.

Evidence of compliance

A registered non-government school must have in place and implement policies and procedures that are appropriate to ensure the personal and social development of students undertaking all or a significant part of their courses of study by means of distance education. It must maintain documentation for each calendar year of the current registration period that includes:

• evidence that it has made available to stakeholders in a student’s education and welfare the school’s guiding principles and general organisation including statements about
  – school aims
  – enrolment policies
  – student welfare policies
  – staff roles and responsibilities
  – communication mechanisms and processes for handling complaints
  – learning and social support services provided for students
  – assessment policies and procedures
• procedures to monitor students’ personal and social development
• policies and procedures that are appropriate to ensure the safety and welfare of students undertaking ‘residential school’ sessions. Where accommodation for a ‘residential school’ is provided by the school itself or by contractual arrangement (excluding brief school excursions and ‘home stay’ accommodation) such policies and
procedures must meet the standards for the safety and welfare of boarders (refer to sections 5.11.1 to 5.11.8 of the Manual)

- details of the school’s programs that focus on personal and social development
- structured experiences that focus on personal and social development at the ‘residential school’ sessions
- details of school support personnel, such as a counsellor, who assist with issues related to personal and social development as needed.

The use of distance education as a mode of delivery by a school does not abrogate the school’s obligation to ensure that all of the registration requirements that are relevant to that mode of delivery are met.

5.7 Discipline

5.7.1 A registered non-government school must have policies relating to discipline of students attending the school that are based on principles of procedural fairness.

The Act requires that policies related to the discipline of students be based on procedural fairness. It is the responsibility of the school to determine incidents that may require disciplinary action and the nature of any penalties that may apply. The process that leads to the imposition of such penalties, particularly but not exclusively in relation to suspension, expulsion and exclusion, must be procedurally fair.

Suspension is a temporary removal of a student from all of the classes that a student would normally attend at a school for a set period of time.

Expulsion is the permanent removal of a student from one particular school.

Exclusion is the act of preventing a student’s admission to a number of schools. In extreme circumstances, the principal of a school may make a submission to an appropriate authority, or to other schools, recommending the permanent exclusion of a student from the registration system that the school is a member of, or from other schools.

Procedural fairness is a basic right of all when dealing with authorities. Procedural fairness refers to what are sometimes described as the 'hearing rule' and the 'right to an unbiased decision'.

The ‘hearing rule’ includes the right of the person against whom an allegation has been made to:
- know the allegations related to a specific matter and any other information which will be taken into account in considering the matter
- know the process by which the matter will be considered
- respond to the allegations
- know how to seek a review of the decision made in response to the allegations.

The ‘right to an unbiased decision’ includes the right to:
- impartiality in an investigation and decision-making
- an absence of bias by a decision-maker.

Procedural fairness includes making available to students and parents or caregivers the policies and procedures under which disciplinary action is taken. It also includes
providing details of an allegation relating to a specific matter or incident. This will usually involve providing an outline of the allegations made in witness statements and consideration of witness protection. As part of ensuring the right to be heard, schools could establish any need for parents/caregivers to be provided with interpreter services and, if required, make arrangements for such services to be available.

While it is generally preferable that different people carry out the investigation and decision-making, in the school setting this may not always be possible. If the principal is conducting both the investigative and decision-making stages, he or she must be reasonable and objective. To be procedurally fair, the principal must act justly and be seen to act justly. While it is difficult to combine the roles of investigator and adjudicator, it is acceptable to do so given the nature of the principal’s responsibilities. Nevertheless, it may be preferable to have another appropriate officer, such as an assistant principal or independent person, carry out the investigation where possible. The review mechanism adds to the fairness of the process.

In matters where a long suspension, expulsion or exclusion is contemplated, the gravity of the circumstances requires particular emphasis to be given to procedural fairness. This includes the offer of having a support person/observer attend formal interviews. The key points of the interview/discussion should be recorded in writing.

Evidence of compliance

A registered non-government school will have in place and implement policies related to the discipline of students that do not permit corporal punishment of students.

5.7.2 A registered non-government school must have policies related to discipline of students attending the school that do not permit corporal punishment of students.

Evidence of compliance

A registered non-government school will have in place and implement policies related to the discipline of students that:

- either expressly prohibit corporal punishment or clearly and exhaustively list the school’s discipline methods so as to plainly exclude corporal punishment
- do not explicitly or implicitly sanction the administering of corporal punishment by non-school persons, including parents, to enforce discipline at the school.

5.8 Attendance

A registered non-government school must keep a register of enrolments and daily attendances of all children at the school.

The Act requires that the principal of a registered non-government school keep a register of enrolments and daily attendances of all children at the school. The register of enrolments and/or the register of daily attendances may be maintained in print or electronic form.

The attendance registers must be in a form approved by the Minister for Education. In 2010 the Minister approved a common code for the attendance registers of all New South Wales schools. The codes must be used from the start of the 2012 school year. The approved
authority for a system may provide specific advice to member schools on the application of the codes. The codes for use in either manual attendance registers or electronic attendance registers are published on the websites of the NSW Association of Independent Schools (AIS) and the NSW Catholic Education Commission (CEC).

Copies of the information in the register of enrolment and the register of daily attendance should be stored off-site at regular intervals.

In 2010 the Minister under section 25 of the Education Act 1990 delegated the power to the principal of a non-government school to grant and cancel a certificate of exemption from being enrolled and attending school in certain prescribed circumstances. The Minister also delegated this power to the approved authority for a system in certain prescribed circumstances.

Evidence of compliance

A registered non-government school must:

- maintain a register of enrolments that includes the following information for each student:
  - name, age and address
  - the name and contact telephone number of parent(s)/guardian(s)
  - date of enrolment and, where appropriate, the date of leaving the school and the student’s destination
  - for children older than six (6) years, previous school or pre-enrolment situation
  - where the destination of a student below seventeen (17) years of age is unknown, evidence that a Department of Education and Communities officer with home school liaison responsibilities has been notified of the student’s full name, date of birth, last known address, last date of attendance, parents’ names and contact details, an indication of possible destination, other information that may assist officers to locate the student, and any known work health and safety risks associated with contacting the parents or student
- have in place and implement policies and procedures to:
  - monitor the daily attendance/absence of students
  - identify absences from school and/or class(es)
  - follow up unexplained absences
  - notify parent(s) and/or guardian(s) regarding poor school and/or class attendance
  - transfer unsatisfactory attendance information to student files
- maintain a register of daily attendance that includes the following information for each student:
  - daily attendance, which may be recorded by noting daily absences
  - absences
  - reason for absence
  - documentation to substantiate reason for absence.

Note: The common code approved by the Minister must be used from 2012.

- have in place and implement policies and procedures for exercising the Minister’s delegation under section 25 of the Education Act 1990
- maintain records of the exercise of the above delegation including copies of all certificates issued under the delegation
The register of enrolments must be retained for a minimum period of five (5) years before archiving. The register of daily attendances must be retained for a period of seven (7) years after the last entry was made.

### 5.9 Management and operation of the school

#### 5.9.1 Each person defined under the Act as a ‘responsible person’, and any other person or body exercising similar functions in relation to the school as those of a ‘responsible person’, is of good character.

Section 47(b) of the Act contains a good character requirement for responsible persons. The Act defines a ‘responsible person’ as:

- the proprietor of the school and, if the proprietor is a corporation, each director or person concerned in the management of the school, or
- a member of the governing body of the school, or
- the principal of the school.

Where the proprietor of a school is a corporation, persons concerned in the management of the school may include trustees. In considering whether a person defined as a ‘responsible person’ under the Act, or any other person or body exercising similar functions, is of good character, the Board of Studies will consider a number of relevant factors. In considering these factors, the Board will have regard to the principles of procedural fairness.

Whether someone is of good character is a question of fact to be determined by considering that person’s enduring moral qualities. While good character in this sense is separate from reputation, a person’s reputation may throw light on their character. Accordingly, a person’s reputation may be taken into account in determining whether someone is a person of good character. However, a person’s reputation may only be taken into account as an adjunct to the central purpose of identifying their enduring moral qualities. In assessing a person’s enduring moral qualities, the Board may take into account all of the circumstances of each person, and, in particular:

(a) whether the person or entity has ever been convicted of an offence;
(b) whether the person or entity has ever been bankrupted or wound up;
(c) whether the person has engaged in deliberate conduct, whilst not criminal, suggests a deliberate pattern of immoral, unethical or sharp behaviour.

So far as (a) is concerned, the fact that a person may, at some time, have been convicted of an offence does not necessarily mean that their enduring moral qualities are such that they should not be regarded as being of good character. For example, the conviction may have been trivial or very distant in time, and may have been followed by years of exemplary conduct. Consequently, where a person has been convicted of an offence, it will be necessary to consider the nature of the offence, how long ago it was that the conviction was recorded, and the person’s conduct since the time of the conviction.

With regard to (b), where a person has been bankrupted or an entity has been wound up, the circumstances and distance in time of the bankruptcy or winding up must be considered.
Paragraph (c) above involves more complex considerations. Breaches of federal or state laws that fall short of constituting criminal offences may be trivial and unintentional. On that basis, they may not provide evidence of an absence of good character. However, there will be occasions when non-criminal breaches of law may indicate the presence of moral turpitude such as where there is evidence of:

- a pattern of non-criminal offences without sufficient remorse or a reasonable attempt at rectifying subsequent conduct;
- the frequent and deliberate setting up of multiple corporate ventures which then fail may justify drawing the inference that those responsible are engaged in sharp practice. As sharp practice is a judgement about a person’s moral quality, such conduct could be taken into account in determining an absence of good character.

The conduct at (c) may involve offences or breaches of the statutes listed in section 13.1 of this Manual Appendix – Information about other legislation. In such cases:

(i) the commission of an offence under any of them could form the basis for a bad character conclusion;
(ii) the breach of the legislation without the concomitant commission of a criminal offence, by itself would not generally impact upon a person’s good character unless the breaches were deliberate and could reasonably be seen as impacting upon the moral qualities of the person in question.

The Board may also take into account whether there is adverse information as to the person's mental health. Where a person becomes mentally incapacitated and becomes a patient at an institution because of that incapacity or a protected person under the NSW Trustee and Guardian Act 2009, the specific circumstances of the incapacity must be considered.

These matters are not definitive but are used as an insight into the character of the person. In the event that any of the above matters are established, the Board will also have regard to any explanations for that state of affairs and the person’s current character.

**Evidence of compliance**

The Board will consider any notification made as described in section 5.9.3 of the Manual having regard to the requirements provided above.

A registered non-government school must have in place processes of notification and disclosure by which it can provide assurance to the Board of Studies that each person defined under the Act as a ‘responsible person’, and any other person or body having similar functions in relation to the management or operation of the school as those of a ‘responsible person’, is of good character. The school proprietor will be required to provide certification at the time of making an application for initial or renewed registration that the school's own processes are conformable with these requirements.
5.9.2 Any refusal to register, or cancellation of registration, of the school or any other school under sections 56 or 59 occurring during the period of five (5) years immediately before the application for registration is made, has not been largely attributable to the actions of:

- a ‘responsible person’ for the school or proposed responsible person,
- or
- any other person or body exercising similar functions in relation to the management or operation of the school to those of a ‘responsible person’.

Evidence of compliance

The approved authority for a registration system must have in place processes of notification and disclosure by which it can provide assurance to the Board of Studies that any refusal to register, or cancellation of registration, of the member school or any other school under section 56 or 59 of the Education Act occurring during the period of five (5) years immediately before an application for registration of the member school is made, has not been largely attributable to the actions of:

- a ‘responsible person’ for the member school, or
- any other person or body exercising similar functions in relation to the management or operation of the member school to those of a responsible person.

5.9.3 The Board of Studies must be notified of certain matters

1 The Act requires that any person defined as a ‘responsible person’ under the Act (and any other person or body exercising similar functions in relation to the management and operation of the school) be of good character and be able to carry out their responsibilities in relation to the operation of the school. Specifically, the Act requires that the Board of Studies be notified if a person defined as a ‘responsible person’ under the Act:

- is convicted of an offence that is punishable by imprisonment for twelve (12) months or more or
- becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvency debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit or
- if the person is a corporation – is the subject of a winding up order or has had a controller or administrator appointed.

In the above circumstances the Act requires that a ‘responsible person’ for the school notify the Board of Studies and at least one other ‘responsible person’ of the circumstances surrounding the conviction, bankruptcy, insolvency, winding up order or appointment of the controller or administrator as soon as practicable after it occurs. Notifications in relation to (1) are subject to the Board of Studies Privacy Management Plan. There is no notification requirement for the above if the person concerned ceases to be a ‘responsible person’.
2 The Act also requires the Board of Studies and at least one other ‘responsible person’ to be notified if a ‘responsible person’ becomes a mentally incapacitated person and becomes
- a patient at an institution because of that incapacity
  or
- a protected person under the *NSW Trustee and Guardian Act 2009*.

Notifications in relation to (2) are subject to the Board of Studies Privacy Management Plan. There is no notification requirement for the above if the person concerned takes leave from the position or ceases to hold the position.

3 The Act requires that the Minister be notified if the school moves or is sold. To comply with this requirement the proprietor and/or principal must notify the Board of Studies. Specifically:
(a) if a registered non-government school or part of a school proposes to move to new premises, written notice is to be given by the proprietor and/or the principal of the school to the Board at least three (3) months before relocation. This particularly relates to moving premises and buildings connected with the teaching of courses of study, the amenities for teachers and students participating in those courses of study and boarding facilities provided for students by the school
(b) if the legal entity that owns a registered non-government school is sold, written notice of the sale is to be given by the purchaser to the Board within seven (7) days of the completion of the sale.

4 The Act also makes provision for the approved authority for a system of non-government schools to provide returns to the Board. Specifically, the approved authority must provide returns to the Board of Studies concerning the requirements for registration in relation to the school in a form, and at the times, approved by the Board for that purpose.

To comply with the requirements detailed in (1), (2), (3) and (4) above, such notification should be forwarded to the approved authority for the system who will notify the Office of the Board of Studies.

**Evidence of compliance**

An approved authority for a registration system must have in place documented processes of notification and disclosure for member schools by which the system can provide returns to the Board of Studies to meet the requirements of the Act.

5.10 Educational and financial reporting

5.10.1 A registered non-government school must have policies and procedures that ensure its participation in annual reporting to publicly disclose the educational and financial performance measures and policies of the school.

The Act requires each registered non-government school to prepare an annual report of a kind determined by the Minister on the school’s performance measures and policies as identified by the Minister. Accordingly, the Minister has determined that the performance measures and policies that must be included in the annual report relate to:
Each registered non-government school’s annual report must include the following information:

- a message from key school bodies
- contextual information about the school
- student outcomes in standardised national literacy and numeracy testing
- the granting of Records the Record of School Achievement
- student performance in results of statewide tests and examinations the Higher School Certificate
- professional learning and teacher standards
- workforce composition
- senior secondary outcomes
- student attendance and management of non-attendance
- retention of Year 10 to Year 12 (where relevant)
- post-school destinations
- enrolment policies and characteristics of the student body
- school policies
- school determined improvement targets
- initiatives promoting respect and responsibility
- parent, student and teacher satisfaction
- summary financial information.

Where it does not contravene privacy and personal information policies, graphical and/or tabulated presentation of this information is required and should show:

- comparative performance over time,
- comparisons with statewide performance, and
- comparative information in relation to similar schools where appropriate.

Interpretive comments for the graphical/tabulated information presented must be provided.

Publication of performance data must be consistent with the requirements of all relevant State and national legislation.

- senior secondary outcomes including:
  - percentage of students in Year 12 undertaking vocational or trade training, and
  - percentage of students in Year 12 attaining a Year 12 certificate or equivalent VET qualification
- a summary of professional learning undertaken by teachers (as defined by the Institute of Teachers Act 2004) during the year
- details of all teaching staff (as defined by the Institute of Teachers Act 2004) who are responsible for delivering the curriculum in terms of the numbers in the following categories:
(i) having teacher education qualifications from a higher education institution within Australia or as recognised within the National Office of Overseas Skills Recognition (AEI-NOOSR) guidelines, or
(ii) having a bachelor degree from a higher education institution within Australia or one recognised within the AEI-NOOSR guidelines but lacking formal teacher education qualifications, or
(iii) not having qualifications as described in (i) or (ii) but having relevant successful teaching experience or appropriate knowledge relevant to the teaching context. Such teachers must have been employed to ‘teach’ in NSW before 1 October 2004 (either on a permanent, casual or temporary basis), and have approval from the NSW Institute of Teachers to extend the period during which an approved teaching qualification may be obtained as a ‘teacher’ during the last five (5) years in a permanent, casual or temporary capacity.

- workforce composition, including indigenous (as known and with regard to consideration of privacy issues)
- student attendance rates for each Year level and the whole school
- a description of how the school manages student non-attendance
- retention of Year 10 to Year 12 (where relevant)
- post-school destinations (secondary schools only). For students beyond the compulsory years of schooling these can be represented in broad terms (eg workforce, further study, unknown) and in the most appropriate way according to each school’s circumstances
- enrolment policies, including any prerequisites for continuing enrolment
- characteristics of the student body
- school policies. A summary of policies for student welfare, discipline, anti-bullying and complaints and grievances, with information on:
  - changes made to these policies during the reporting year
  - how to access or obtain the full text of these policies
  (Note: the policies may be discrete or integrated according to local context)
- priority areas for improvement as selected by the school including comments on the achievement of priorities for the previous year. The areas selected for improvement by the school may or may not include targets for student achievement
- actions undertaken by the school to promote respect and responsibility. These may relate to respectful behaviour, involvement in community service activities, and specific class-based activities
- a description in plain language of parent, student and teacher satisfaction. This can be represented in the most appropriate way according to each school’s circumstances
- summary financial information which includes:
  - income from all sources, including Commonwealth and State grants and subsidies and all private income, including fees and donations
  - expenditure on all purposes, including teaching and learning, administration and financing (ie borrowing costs, depreciation, etc).
  Financial information is to be based on and reported in a form consistent with the detailed information provided to the Commonwealth Government each year in the Commonwealth Financial Questionnaire.
The presentation of financial information may be in graphical forms such as pie charts, provided that each segment of the graphic represents specific dollar amounts aggregated from the financial information that each school provides annually to the Commonwealth. Where schools use a graphical representation, the overall financial position of the school must be organised according to the areas covered by the Commonwealth Questionnaire as follows:

- Graphic one – recurrent/capital income, with segments detailing percentages derived from
  - fees and private income
  - State recurrent grants
  - Commonwealth recurrent grants
  - government capital grants
  - other capital income
- Graphic two – recurrent/capital expenditure, showing percentages spent on
  - salaries, allowances and related expenses
  - non-salary expenses
  - capital expenditure.

When income is received and managed by a registration system authority on behalf of member schools, the system may provide a summary financial report for that income on behalf of member schools in a form that is consistent with the categories detailed above in relation to the Commonwealth Financial Questionnaire.

Where a system authority is reporting on summary financial information on behalf of member schools, each member school must also report on the locally generated income of the school using the categories detailed above in relation to the Commonwealth Financial Questionnaire.

**Evidence of compliance**

Each registration system and member non-government school must have policies and procedures that ensure participation in annual school reporting to publicly disclose the educational and financial performance measures and policies of the school as identified by the Minister.

Schools may include the information covered by these requirements within their existing reporting documentation, or produce a separate report. If information addressing these requirements is incorporated in existing documentation, it must be by way of a clearly identified, separate section. The Act requires that this information be publicly disclosed. Ideally, this information will be published or its availability advertised online if the school has a website.

The member schools’ annual reports and, where applicable, system authority summary financial report must be provided in an online or appropriate electronic form to the Board of Studies unless otherwise agreed by the Board.

Reports are to relate to each school year. Each non-government school is to produce a report by no later than 30 June in the year following the reporting year.
5.10.2 A registered non-government school must have policies and procedures that ensure it can provide data to the Minister that is relevant to the Minister’s annual report to Parliament on the effectiveness of schooling in the State.

The Minister may report annually to Parliament on a range of issues including the results of the Higher School Certificate examinations and other information. The Act makes provision for the extent to which examination results can be made public. From time to time the Minister may require additional information for a report to Parliament. Schools will be notified if any additional information is required. Such notification will be provided at least three (3) months prior to the information being required.

Evidence of compliance

A registered non-government school must have policies and procedures that ensure it can provide data to the Minister that is relevant to any Ministerial report to Parliament on the effectiveness of schooling in the State.

Such data from non-government schools will be provided to the Board of Studies in an online or appropriate electronic form unless otherwise agreed by the Board.

5.11 Schools with boarding facilities

If a registered non-government school provides boarding facilities, whether itself or by contractual arrangement, the school must have policies and procedures that are satisfactory to ensure the safety and welfare of boarders.

A school that provides boarding facilities is one that regularly provides overnight accommodation for students enrolled at the school, either itself or by contractual arrangement. Boarding facilities exclude accommodation provided away from school premises for day students during a brief school trip and ‘home stay’ accommodation.

The requirements that are appropriate to ensure the safety and welfare of boarders are contained in a set of minimum standards for the safety and welfare of boarders as described in requirements 5.11.1 – 5.11.8.

While the title and scope of policies and procedures that a school will have in place in relation to 5.11.1 – 5.11.8 will vary from school to school depending on the school’s philosophy, ethos and practice, each requirement must be addressed within the totality of the school’s policies and procedures.

5.11.1 A registered non-government school’s aims and guiding principles in relation to boarding are available to stakeholders in a student’s education and welfare.

Stakeholders in a student’s education include parents, guardians and the Board of Studies.

Evidence of compliance

A registered non-government school must have in place and implement, and make available to stakeholders in a student’s education, policies and procedures that include:
- the aims and organisation of boarding at the school
- the enrolment policy, if different from the day school enrolment policy
- any special aspects of the school’s boarding facilities, for example co-educational, weekday-only boarding
- a description of the facilities and support services provided for boarders
- how the school’s policies for boarding relate to day school policies
- communication mechanisms.

### 5.11.2 Boarders are provided with accommodation that complies with legislative requirements.

**Evidence of compliance**

A registered non-government school must:

- assess and monitor the standard and state of repair of boarding premises, buildings and facilities, taking into account the requirements of all legislation relevant at the time of occupation including the
  - Explosives Act 2003
  - Work Health and Safety Act 2011
- undertake and maintain details of annual fire safety assessments that comply with Part 9 Division 5 of the Environmental Planning and Assessment Regulation 2000
- maintain written evidence that any school premises and/or buildings first occupied after 2003 comply with all legislation relevant at the time of occupation
- maintain written evidence that any school premises and/or buildings that are the subject of a development application after 2003 comply with all legislation relevant at the time of occupation
- confirm that it has policies and procedures to meet the requirements of the Disability Discrimination Act 1992 in terms of the school's boarding buildings and premises.

For buildings that are the subject of a development consent or erected since 1997, the school will have a Certificate of Compliance with Class 3 (Boarding and Hostel Zone) of the Building Code of Australia (BCA).

### 5.11.3 The rights and responsibilities of boarders are defined and respected.

For schools with boarding facilities:

- Suspension is a temporary removal of a student from the boarding facilities that a student would normally use for a set period of time.
- Expulsion is the permanent removal of a student from the boarding facilities.
- Exclusion is the act of preventing a student's admission to a number of schools.

In extreme circumstances, the principal of a school may make a submission to an appropriate authority, or to other schools, recommending the permanent exclusion of a student from the registration system that the school is a member of, or from other schools.

**Evidence of compliance**

A registered non-government school must have in place and implement policies and procedures that include:
• codes of conduct for members of the boarding community describing the
  – rights and responsibilities of boarders
  – role of any student leadership system (or equivalent) in the boarding school
    organisation and how the system is monitored
• management of student behaviour including but not limited to processes for
  suspension, expulsion and exclusion that are based on procedural fairness
• a process for handling complaints that describes how matters of concern can be raised
  and a process for responding to those concerns.

5.11.4 Staff are trained and the school meets legislative requirements in
relation to child protection.

Evidence of compliance

A registered non-government school must have in place and implement policies and
procedures to:
• ensure that all staff directly involved with the supervision of boarders are informed of
  the legal responsibilities related to child protection, mandatory reporting and other
  relevant school expectations
• ensure that requirements to notify and investigate allegations of reportable conduct in
  compliance with the Ombudsman Act 1974 are made known to staff
• ensure that the school meets the employment screening and notification requirements
  of the Commission for Children and Young People Act 1998 (until such time as the
  provisions of the Child Protection (Working with Children) Act 2012 are commenced, at
  which time the latter provisions are to apply instead)
• ensure that all staff, volunteers, outside tutors and external providers are informed of
  their obligations under the Commission for Children and Young People Act 1998 (until
  such time as the provisions of the Child Protection (Working with Children) Act 2012
  are commenced, at which time the latter provisions are to apply instead)
• respond to reportable matters in accordance with legislative requirements
• ensure that all staff who are mandatory reporters under the Children and Young
  Persons (Care and Protection) Act 1998 are informed of their obligations and the
  manner in which the school expects them to comply
• ensure that all staff have up-to-date staff handbooks and undertake professional
  development as determined by the principal.

5.11.5 Risk of harm as defined in the Children and Young Persons (Care
and Protection) Act 1998 is minimised for boarders.

Evidence of compliance

A registered non-government school must have in place and implement policies and
procedures to minimise the risk of harm that include supervision with specific reference to:
• identification of staff with allocated responsibility for students over a twenty-four (24)
  hour period
• procedures for monitoring the whereabouts of students over a twenty-four (24) hour period
• protocols and guidelines, including risk management, for boarders undertaking on-site and off-site activities
• protocols for leave and travel arrangements.

5.11.6 Boarders' physical wellbeing and development are provided for and monitored.

Evidence of compliance
A registered non-government school must have in place and implement policies and procedures to provide for and monitor boarders' physical wellbeing and development that include:
• supplying food that meets the Australian Dietary Guidelines
• catering that complies with the requirements of the NSW Food Act 2003
• facilities, personnel and programs for physical activity.

The school must also have in place and implement policies and procedures for health care including:
• twenty-four (24) hour access to emergency medical assistance
• training of all staff directly involved in the supervision of boarders to the equivalent of Level 2 Senior First Aid Certificate
• monitoring the physical health of boarders
• consent from and notification of parents/guardians regarding the administering of first aid and medical care
• managing communicable and infectious diseases
• managing immunisation and screening
• distribution and monitoring of medication
• care of ill boarders
• ancillary health services, including facilities and personnel available on-site and off-site and how to access these services.

5.11.7 Boarders' personal development and emotional wellbeing are provided for and monitored.

Evidence of compliance
A registered non-government school must have in place and implement policies and procedures to provide for and monitor boarders' personal development and emotional wellbeing that include:
• personnel responsible for pastoral care
• identification of and support for students with special needs
• homework and access to assistance with homework
• access to counselling where required
• provision for parent/guardian-student communication.
5.11.8 Day-to-day management of the boarding accommodation and facilities protects boarders and meets legislative requirements.

Evidence of compliance

A registered non-government school must have in place and implement policies and procedures to protect boarders that include:

- security of the boarding school and its students, buildings and facilities for twenty-four (24) hours each day
- response to serious incidents and emergencies.
6 **Provisional Registration including Initial Registration**

Provisional registration applies to new schools and new Year(s) of schooling in their first year of registration. This first period of registration is initial registration.

Provisional registration also applies as a sanction to established schools where the Board is satisfied that there are concerns about compliance with the registration requirements.

6.1 **Initial registration**

Newly registered non-government schools must meet the requirements of the Act upon commencement of operation.

It may not be possible for a proposed new school to provide evidence of compliance with all sections of the Act prior to commencement. It is expected, however, that the applicant will provide evidence of policies and procedures that will ensure compliance of the school with the requirements of the Act should the application be successful. If the application for initial registration is successful, the new school is required to meet all the requirements detailed in section 3 of this Manual and must, throughout its period of initial registration, maintain evidence of compliance with those requirements.

Based on the requirements described in section 3 of this Manual, the following evidence of capacity to comply is required for proposed new schools to be considered for initial registration.

Any difference in the description of initial registration requirements in this section and those described in section 3 is only intended to take account of the fact that compliance with some requirements cannot be demonstrated until the school begins operation. On commencing operation, the requirements in section 3 apply.

6.1.1 **Legal entity**

*Evidence of capacity to comply*

The approved authority for a registration system must provide evidence that:

- either the approved authority is one of the types of legal entity approved by the Minister or the proposed individual member school of the system is one of the types of legal entity approved by the Minister and
- a legally binding relationship exists between the system authority and the proposed member school that allows the approved authority to comply with its obligations under the Act.

6.1.2 **Staff**

*Evidence of capacity to comply*

The proposed non-government school must:

- have in place a feasible workforce plan based on projected enrolment
- provide an assurance that all teaching staff who will be responsible for delivering the curriculum as described by Parts 1, 3, 7 and 8 of the *Education Act 1990* will have
qualifications from a recognised teacher education institution within Australia or as recognised within the National Office of Overseas Skills Recognition (NOOSR) guidelines

- identify any course(s) that it intends to offer through study with outside tutor(s) in its first year of operation. Where this is the intention, documented guidelines must be in place that outline the process to be used to
  - verify each outside tutor’s capacity to teach a course
  - ensure that in accessing an outside tutor the proposed school would continue to comply with the mandatory employment requirements under the Commission for Children and Young People Act 1998 (until such time as the provisions of the Child Protection (Working with Children) Act 2012 are commenced, at which time the latter provisions are to apply instead)
  - ensure that the Board of Studies curriculum and, where relevant, assessment requirements will be met by each outside tutor

- identify any course(s) that it intends to outsource to external provider(s) in its first year of operation. Where this is the intention, documentation must be provided that includes
  - an outline of the processes that would be used to determine the suitability of the provider(s) to deliver the course(s)
  - an outline of the processes to be used to ensure that the outsourced courses comprise a minority of each student’s overall pattern of study for Year of schooling
  - procedures to ensure that each outsourced provider complies with the Commission for Children and Young People Act 1998 for any person involved in the delivery of an outsourced course (until such time as the provisions of the Child Protection (Working with Children) Act 2012 are commenced, at which time the latter provisions are to apply instead)
  - the respective responsibilities of the proposed school and possible external provider(s) including procedures that will be put in place to ensure that course(s) of study and, where relevant, assessment requirements will be met.

### 6.1.3 Curriculum

**Evidence of capacity to comply**

#### 6.1.3.1 The proposed non-government school must:

- provide a summary of the proposed total number of teaching hours per Year/class and KLA/couse
- provide an overview of the school’s educational program indicating
  - the scope and sequence of proposed learning/units of work in relation to outcomes of the Board of Studies syllabus for each KLA/course for each Year
  - resources and equipment available for each KLA/course
  - an assessment plan indicating how students’ performance in each KLA/course is to be assessed, monitored and recorded
  - the proposed process for reporting student achievement
- describe how the proposed school, if secondary and applying for registration only, will inform parents of students in writing each year that the proposed school will not be eligible to enter candidates for the Record of School
Achievement and/or Higher School Certificate and will indicate the consequences for potential candidates for that credential of the proposed school not being accredited.

6.1.3.2 If the proposed non-government school intends to apply to the Board of Studies to modify an outcome(s) of a Board of Studies syllabus due to incompatibility with the proposed school’s educational philosophy or religious outlook, additional documentation must be provided that includes:

- the specific Board of Studies syllabus outcome(s) that are proposed to be modified
- the philosophical or religious reasons for proposing to modify the identified Board syllabus outcome(s)
- the proposed modified educational outcome(s)
- how the identified Board of Studies outcome(s) would be incompatible with the educational philosophy and/or religious outlook of the proposed school
- how the proposed modified outcome(s) are compatible with the educational philosophy and/or religious outlook of the proposed school
- how the proposed modified outcome(s) will be appropriate for potential students with respect to their level of achievement and needs
- how the proposed modified outcome(s) comply with the curriculum guidelines developed by the Board and approved by the Minister in section 13.1 of this Manual
- an overview of the proposed school’s educational program indicating where the modified outcome(s) approved by the Board would occur in relation to the scope and sequence of learning/units of work referred to in section 6.1.3.1 above
- an assessment plan indicating how student achievement of any proposed modified outcome(s) would be assessed, monitored and recorded.

Modifications approved under this provision of the Act are not permitted to the curriculum for the Record of School Achievement or Higher School Certificate.

In the event that the Board is unable to approve a modification because of an inconsistency between the modification sought and the curriculum guidelines, a review of that aspect of the curriculum guidelines may be requested.

6.1.3.3 If the proposed non-government school intends to deliver all or a significant part of the curriculum to its enrolled students in distance education mode, additional documentation must be provided which includes:

- the courses that it proposes to deliver on-site and by means of distance education
- policies and procedures for authenticating potential student work
- guidelines for people such as family or community members who may act as ‘on-site’ supervisors of a student’s distance education work
- policies and procedures in relation to providing a minimum of fifteen (15) days of ‘residential school’ sessions each school year for each potential distance education student undertaking all of their courses of study by distance
education. The minimum number of days of ‘residential school’ sessions that the proposed school intends to provide for students undertaking less than a full program of study by means of distance education is to be calculated on a pro-rata basis

• policies and procedures in relation to providing additional ‘residential school’ sessions for students undertaking courses that include practical components

• policies and procedures in relation to teacher visits to students

• samples of the teaching programs for each course to be delivered by means of distance education, including teaching and learning activities that would be provided to students

• the proposed annual schedule for teaching programs and activities to be undertaken on the days of ‘residential school’ sessions

• the proposed annual schedule for additional ‘residential school’ sessions for courses that have a practical component.

6.1.3.4 If the proposed non-government school is applying for registration as a school providing education of a kind, or for children of a kind, documentation must be provided which:

• describes the children of a kind for whom it is proposed the school would provide an education

• explains how the proposed curriculum meets the needs of potential students

• outlines the proposed total number of hours per Year/class for each course/learning area

• provides an overview of the proposed school’s educational program indicating
  – the scope and sequence of learning/units of work in relation to the outcomes for each course/learning area for each Year
  – resources and equipment available for each course/learning area
  – an assessment plan indicating how students’ performance in each proposed course will be assessed, monitored and recorded
  – the proposed process for reporting student achievement

• describe how the proposed school, if secondary and applying for registration only, will inform parents of students in writing each year that the proposed school will not be eligible to enter candidates for the Record of School Achievement and will indicate the consequences for potential candidates for that credential of the proposed school not being accredited.

Where a non-government school is applying for provisional registration to provide education for children of foreign nationals, the teaching staff must hold qualifications that are deemed appropriate by the relevant education authority (or equivalent) to teach the curriculum being delivered.

6.1.4 Premises and buildings

Evidence of capacity to comply

The proposed non-government school must:

• provide written evidence that the proposed premises and buildings comply with all legislation relevant at the time of occupation
• provide written evidence that the proposed premises have approval from the local Council to be used for their intended purpose
• have documented policies to assess and monitor the standard and state of repair of proposed premises and buildings, making reference to current building requirements
• provide details of a fire safety assessment of the proposed premises which demonstrates compliance with Part 9 Division 5 of the Environmental Planning and Assessment Regulation 2000
• confirm that it has policies and procedures to meet the requirements of the Disability Discrimination Act 1992 in terms of the school's buildings and premises.

6.1.5 Facilities

Evidence of capacity to comply

The proposed non-government school must:
• identify the range of educational facilities that will be available for each of the courses of study it proposes to deliver, the potential number of students for each course, whether the facilities will be provided on-site and the frequency of access to off-site facilities
• provide written evidence that the proposed facilities will comply with all relevant local council and government legislation
• have policies to assess and monitor the current standard and state of repair of proposed facilities, when established, taking into account the requirements of relevant legislation including the
  – Explosives Act 2003

6.1.6 Safe and supportive environment

Evidence of capacity to comply

6.1.6.1 The proposed non-government school will have in place documented policies and procedures to:
• ensure that staff who will have direct contact with students will be informed of the legal responsibilities related to child protection, mandatory reporting and other relevant school expectations
• ensure that requirements to notify and investigate child abuse allegations in compliance with the Ombudsman Act 1974 will be made known to staff
• ensure that the school will meet the employment screening and notification requirements of the Commission for Children and Young People Act 1998 (until such time as the provisions of the Child Protection (Working with Children) Act 2012 are commenced, at which time the latter provisions are to apply instead)
• ensure that all staff, volunteers, outside tutors and external providers will be informed of their obligations under the Commission for Children and Young People Act 1998 (until such time as the provisions of the Child Protection (Working with Children) Act 2012 are commenced, at which time the latter provisions are to apply instead)
• respond to reportable matters in accordance with legislative requirements
• ensure that all staff who are mandatory reporters under the *Children and Young Persons (Care and Protection) Act 1998* will be informed of their obligations and the process that the school will have in place in relation to mandatory reporting.

6.1.6.2 Within the totality of the proposed school’s policies and procedures the proposed non-government school must have in place policies and procedures in relation to:

• security, with specific reference to
  – students
  – proposed buildings and facilities
  – evacuation procedures
• supervision, with specific reference to protocols and guidelines, including risk management, to be used for students undertaking on-site and off-site activities
• codes of conduct for members of the proposed school community, with specific reference to
  – rights and responsibilities of students and staff within the proposed school’s community
  – management of student behaviour
  – anti-bullying including contact information for School Liaison Police and/or Youth Liaison Officers and other support services available to the school community
  – the role of any student leadership system (or equivalent) in the school and the monitoring of the system
  – management and reporting of serious incidents and emergencies
• complaints or grievances, with specific reference to processes for raising and responding to matters of concern identified by parents and/or students
• pastoral care, with specific reference to
  – proposed structures and personnel responsible for pastoral care including access to counselling
  – proposed provision for the identification of and support for students with special needs
  – health and the distribution and monitoring of medication
  – response to serious incidents and emergencies
  – homework
• communication, with specific reference to proposed formal and informal mechanisms that will be available between the proposed school and stakeholders interested in the student’s education and wellbeing.

Where the proposed school intends to allow students to study with an outside tutor or undertake outsourced courses/subjects, policies and procedures must be in place and be appropriate to ensure the personal safety and welfare of such students and their personal and social development (refer to section 6.1.6.3 of the Manual).
6.1.6.3 If the proposed non-government school intends to deliver all or a significant part of the curriculum by means of distance education to its students, the proposed school must provide additional documentation that includes:

- evidence that it will make available to stakeholders in a student’s education and welfare the school’s guiding principles and general organisation including statements about
  - school aims
  - enrolment policies
  - student welfare policies
  - staff roles and responsibilities
  - communication mechanisms and processes for handling complaints
  - learning and social support services provided for students
  - assessment policies and procedures
- procedures to monitor students’ personal and social development
- policies and procedures that will be appropriate to ensure the safety and welfare of students undertaking ‘residential school’ sessions where the students will be required to be accommodated away from home and the facilities/accommodation for such sessions will be provided by the proposed school itself or by contractual arrangement (excluding brief school trips and ‘home stay’ accommodation). Such policies and procedures must meet the standards for the safety and welfare of boarders (refer to 5.11.1 to 5.11.8 of the Manual)
- details of the proposed school’s programs that focus on personal and social development
- structured experiences that focus on personal and social development at the ‘residential school’ sessions
- details of the proposed school’s support personnel, such as a counsellor, who will assist with issues related to personal and social development as needed.

6.1.7 Discipline

Evidence of capacity to comply

6.1.7.1 The proposed non-government school will have in place policies and procedures related to the discipline of students, including but not limited to the suspension, expulsion and exclusion of students, that are based on procedural fairness.

6.1.7.2 The proposed non-government school will have in place policies related to the discipline of students which:

- either expressly prohibit corporal punishment or clearly and exhaustively list the proposed school’s discipline methods so as to plainly exclude corporal punishment
- do not explicitly or implicitly sanction the administering of corporal punishment by non-school persons, including parents, to enforce discipline at the proposed school.
6.1.8 Attendance

Evidence of capacity to comply

The proposed non-government school must:

- describe the method it will use to maintain a register of enrolments that will include the following information for each student
  - name, age and address
  - the name and contact telephone number of parent(s)/guardian(s)
  - date of enrolment and, where appropriate, the date of leaving the school and the student’s destination
  - for students older than six (6), previous school or pre-enrolment situation
  - where the destination of a student below seventeen (17) years of age is unknown, evidence that a Department of Education and Communities officer with home school liaison responsibilities has been notified of the student’s full name, date of birth, last known address, last date of attendance, parents’ names and contact details, an indication of possible destination, other information that may assist officers to locate the student, and any known work health and safety risks associated with contacting the parents or student

- have in place policies and procedures to
  - monitor the daily attendance/absence of students
  - identify absences from school and/or class(es)
  - follow up unexplained absences
  - notify parent(s) and/or guardian(s) regarding poor school and/or class attendance
  - transfer information about unsatisfactory attendance to student files

- describe the method it will use to maintain a register of daily attendance that will include the following information for each student
  - daily attendance, which may be recorded by noting daily absences
  - absences
  - reason for absence
  - documentation to substantiate reason for absence.

- describe the process it will use to retain the register of enrolments for a minimum of five (5) years before archiving

- describe the process it will use to retain the register of daily attendance for a minimum of seven (7) years after the last entry was made.

6.1.9 Management and operation of the school

Evidence of capacity to comply

The proposed non-government school must:

- provide assurance that each person defined under the Act as a ‘responsible person’, and any other person or body exercising similar functions, will be of good character

- provide assurance that any refusal to register, or cancellation of registration, under section 56 or 59, within five (5) years immediately prior to the lodgement of the application for registration has not been largely attributable to the actions of
  - a ‘responsible person’ for the school or proposed responsible person, or
– any other person or body exercising similar functions in relation to the 
management or operation of the school
• have in place documented processes by which
  – the proprietor of the proposed school or, if the proprietor is a corporation, each 
director concerned in the management of the proposed school,
  – each member of the governing body of the proposed school, and
  – the principal

will be informed of their responsibilities under the Act and any amendments to the Act, 
Board of Studies requirements and any Regulations under the Act
• have in place process by which the Board of Studies will be notified if the school moves 
or is sold
• have in place process by which returns are made to the Board of Studies when 
changes occur to the school (refer to section 5.9.3 of the Manual).

6.1.10 Educational and financial reporting

Evidence of capacity to comply

The proposed non-government school must have policies and procedures that can ensure:
• its participation in annual reporting to publicly disclose the educational and financial 
performance measures and policies of the school as identified by the Minister (refer to 
section 5.10.1 of the Manual). The school’s annual report must be provided in an online 
or appropriate electronic form to the Board of Studies unless otherwise agreed by the Board
• it will provide data to the Minister that is relevant to the Minister’s annual report to 
Parliament on the effectiveness of schooling in the State (refer to section 5.10.2 of the 
Manual). Such data from schools will be provided to the Board of Studies in an online 
or appropriate electronic form unless otherwise agreed by the Board.

6.1.11 Schools with boarding facilities

If the proposed non-government school intends to provide boarding facilities, whether itself 
or by contractual arrangement, the proposed school must provide policies and procedures 
that indicate it will meet the standards for the safety and welfare of boarders (refer to 
sections 5.11.1 to 5.11.8 of the Manual).
7 Accreditation Requirements for Member Schools

Registered non-government schools that are accredited must meet curriculum requirements that are additional to those detailed in section 4 of this Manual.

Accreditation for Years 7 to 10 enables a school to enter candidates for the Record of School Achievement. Accreditation for Years 11 to 12 enables a school to enter candidates for the Higher School Certificate.

This section of the Manual details the requirements that all accredited schools must meet and the evidence of compliance that schools must maintain for the period of their accreditation. The requirements and the evidence of compliance relate to:

- the curriculum for the Record of School Achievement
- the curriculum for the Higher School Certificate
- the quality of the education program.

The Act makes provision for requirements for the Record of School Achievement and the Higher School Certificate to be prescribed by Regulations and developed by the Board of Studies. These requirements are outlined on the Board of Studies Assessment Certification Examination (ACE) website.

The maximum period for which accreditation may be renewed is five (5) years.

7.1 Curriculum for the Record of School Achievement

The curriculum for the Record of School Achievement provided by a registered and accredited non-government school must meet the requirements of the Act.

The curriculum from Year 7 to Year 10 for students who are candidates for the Record of School Achievement must:
- meet the study requirements for each key learning area as detailed on the Assessment Certification Examination (ACE) website, and
- be taught in accordance with a syllabus developed by the Board of Studies and approved by the Minister.

The requirements for the Record of School Achievement are detailed on the ACE website. The ACE website also states the rules and procedures for the Record of School Achievement. Schools must refer to these requirements to ensure the eligibility of students for the Record of School Achievement credential.

Schools must refer to the ACE website for details of their responsibilities in relation to the requirements for the award of the Record of School Achievement, the Record of School Achievement curriculum, satisfactory completion of a course and rules concerning attendance and appeals.

The Board’s mandatory curriculum requirements for the award of a Record of School Achievement are detailed on the ACE website. This core curriculum for the Record of School Achievement is mandatory for all accredited non-government schools.
Evidence of compliance

A registered and accredited non-government school must have in place policies and procedures to monitor the compliance of each student with the requirements for eligibility for the award of the Record of School Achievement.

A registered and accredited non-government school must maintain documentation for each calendar year of the current accreditation period that provides evidence of:

- timetables showing the allocation of time and teachers for each Year/class
- the total number of hours allocated to each course
- an overview of the educational program indicating
  - the scope and sequence of learning units/units of work mapped against the content and outcomes of the relevant Board syllabus for each course
  - resources and equipment available for each KLA
- assessment policies and procedures which comply with the requirements documented in on the ACE website and Board of Studies Official Notices. These policies should include statements of school procedures and records relating to the allocation of grades in each Year 10 course
- confirmation that the school has policies for disability provisions in accordance with the ACE website
- an overview of the process for reporting student achievement.

For each calendar year the school must maintain, until the end of that calendar year, documentation that includes:

- teaching programs for each unit of work for each course for each Year/class. The units of work should correspond to those identified in the scope and sequence for that year
- samples of student work that relate to the teaching program for that year.

7.2 Curriculum for the Higher School Certificate

7.2.1 The curriculum for the Higher School Certificate provided by a registered and accredited non-government school must meet the requirements of the Act.

The requirements, rules and procedures for the Higher School Certificate are detailed on the ACE website and in Board of Studies Official Notices. Schools must refer to these rules and procedures to ensure the eligibility of students for the Higher School Certificate credential.

Schools must refer to the ACE website and to Board of Studies Official Notices for details of their responsibilities in relation to the requirements for the award of the Higher School Certificate, including satisfactory completion of a course and appeals.

Evidence of compliance

A registered and accredited non-government school must have in place and implement policies and procedures to monitor the compliance of each student with the requirements for eligibility for the award of the Higher School Certificate.

A registered and accredited non-government school must maintain documentation for each calendar year of the current accreditation period that provides evidence of:

- timetables showing the allocation of time and teachers for each Year/class
the total number of hours allocated to each Preliminary and HSC course
an overview of the educational program indicating
  – the scope and sequence of learning units/units of work mapped against the
c  content and outcomes of the relevant Board syllabus for each course
  – resources and equipment available for each KLA
assessment policies and procedures which comply with the requirements documented
  in the ACE website and Board of Studies Official Notices. These policies should include
  statements of school procedures relating to the allocation of grades in each Preliminary
course
confirmation that the school has policies for disability provisions in accordance with the
ACE website
an overview of the process for reporting student achievement.
The assessment policies must include statements of school procedures relating to:
organisational details of the school’s assessment program for each course, giving the
   number and types of assessment tasks, components and weightings, and scheduling
   of the tasks
marking, recording and reporting student achievement in assessment tasks
administrative arrangements associated with absence from an assessment task, late
submission of tasks due to illness or misadventure, malpractice and invalid or
unreliable tasks
student appeals against assessment rankings
‘N’ determinations
providing students with written advice about the school’s requirements for assessment
in each course.
For each calendar year the school must maintain, until the end of that calendar year,
documentation that includes:
teaching programs for each unit of work for each course for each Year/class. The units
  of work should correspond to those identified in the scope and sequence for that year
samples of student work that relate to the teaching program for that year.

7.2.2 Conditional accreditation of non-government schools for the Record of
School Achievement that are registered for Years 11 and 12 only and
accredited for the Higher School Certificate.

A number of non-government schools are registered for Years 11 and 12 only and are
accredited for the Higher School Certificate. These schools were not accredited for and,
therefore, did not present candidates for the School Certificate.

The abolition of the School Certificate in 2011 and the introduction of the Record of School
Achievement as a cumulative credential that may be awarded to school leavers who
complete Year 10 from 2012 or subsequently during Years 11 and 12 means that non-
government schools registered for Years 11 and 12 only and accredited for the Higher
School Certificate must also be accredited for the Record of School Achievement under
certain conditions. These conditions are that:
(a) such accreditation is for the strictly limited purpose of entering students as candidates for the Record of School Achievement who have met all the requirements for the award of a Record of School Achievement except for the Board’s requirement that the student has left school;

(b) any student entered as a candidate for the Record of School Achievement during Years 11 and 12 at the school must have met all the Board’s requirements for the award of a Record of School Achievement except for the Board’s requirement that the student has left school.

A non-government school not otherwise accredited for the Record of School Achievement that does not meet these conditions is not eligible to present candidates for the Record of School Achievement for students enrolled in Years 11 and 12 and must publicly disclose this ineligibility to parents of children intending to be enrolled or currently enrolled at the school.

Evidence of Compliance

Evidence of compliance with these conditions is certification from the principal of the school previously attended by the student(s) concerned in Year 10 that the student(s) have met all the Board’s requirements for the award of a Record of School Achievement except for the Board’s requirement that the student has left school. This certification will take the form of the Board’s records being updated by the school previously attended by the student(s) concerned. Only principals of government secondary schools or non-government schools registered for Year 10 and accredited for the Record of School Achievement are authorised to make such certification.

A non-government school that does not meet these conditions for eligibility to enter candidates for the Record of School Achievement must publicly disclose this ineligibility to parents of children intending to be enrolled or currently enrolled at the school in the school’s prospectus, on the school’s website or other reasonable equivalent.

7.3 Quality of the educational program

In deciding whether the requirements of the Act relating to the courses of study for the Record of School Achievement and/or Higher School Certificate are being complied with at a registered and accredited non-government school, the Act requires that the Board of Studies assess the quality of the educational program. The main matters that the Board of Studies will have regard to when assessing the quality of the educational program are:

- the record (if any) of achievement of students
- the standard of teaching of courses at the school, and
- the facilities provided at the school for the courses.
7.3.1 Registered and accredited non-government schools will have in place processes by which they can record achievement of students.

The achievement of students may be demonstrated by a number of indicators. These indicators may include:

- results of external examinations such as the Higher School Certificate and NAPLAN
- qualitative and/or quantitative internal and/or external assessment results that can be used to assess a cohort’s improvement over time
- samples of student work.

Evidence of compliance

A registered and accredited non-government school will have in place and implement documented processes for maintaining records over the period of accreditation to demonstrate student achievement.

7.3.2 Registered and accredited non-government schools will have in place processes by which they can demonstrate the standard of teaching of courses at the school.

Registered and accredited secondary schools may provide courses of study themselves or by accessing outside tutors and/or external providers. Where a registered and accredited school accesses an outside tutor and/or external provider for a Record of School Achievement and/or Higher School Certificate course, the school must refer to the ACE website and Board of Studies Official Notices which outline the requirements that the school must meet for the purpose of each of the credentials.

The standard of teaching of courses provided by the school can be demonstrated by:

- the consistency between
  - syllabus/course outcomes
  - scope and sequence of teaching program
  - teaching and learning activities,
  and
  - samples of student work
- student evaluation and teacher reflection/evaluation of teaching and learning activities
- progressive achievement of students over time.

Evidence of compliance

A registered and accredited non-government school will have in place and implement documented processes for maintaining records over the period of accreditation to demonstrate the standard of teaching of courses at the school.

For each student undertaking one or more courses that have been outsourced through an outside tutor and/or external provider the school will have in place and implement documented processes to maintain records:

- to demonstrate that each student’s overall pattern of study meets the eligibility requirements for the Record of School Achievement or Higher School Certificate
- of a written statement from the outside tutor/external provider that the course will be taught in accordance with the Board of Studies syllabuses
- for each Record of School Achievement and Higher School Certificate course, a written statement that the assessment program for the course delivered by the outside
tutor/external provider will meet the requirements of the ACE website and Board of Studies Official Notices.

7.3.3 **Registered and accredited non-government schools will have in place processes by which they can demonstrate that the facilities provided at the school are adequate for the courses taught at the school.**

In addition to the requirements detailed in section 5.5 of the Manual, registered and accredited non-government schools need to provide assurance that the educational facilities are adequate to meet all mandatory requirements for the courses of study throughout their registration period.

*Evidence of compliance*

A registered non-government school must identify the range of educational facilities required to meet all of the mandatory requirements for each of the courses of study offered for the Record of School Achievement and/or Higher School Certificate relative to the number of students in each course, whether the facilities are provided on-site or off-site and the frequency of access to off-site facilities.
8 Provisional Accreditation including Initial Accreditation

Provisional accreditation applies to new schools and established schools who are newly approved for accreditation in their first year of accreditation. The first period of accreditation is initial accreditation.

Provisional accreditation also applies to established schools where the Board is satisfied that there are concerns about compliance with the requirements of the Act relating to the Record of School Achievement and/or Higher School Certificate.

8.1 Initial accreditation

Newly accredited non-government schools must meet the requirements of the Act upon commencement of operation.

It may not be possible for a proposed new school to provide evidence of compliance with all sections of the Act relating to the Record of School Achievement and/or Higher School Certificate prior to commencement. It is expected, however, that the applicant will provide evidence of policies and procedures that will ensure compliance of the school with the requirements of the Act should the application be successful. If the application for initial accreditation is successful, the school is required to meet all the requirements detailed in section 7 of this Manual and must, throughout its period of initial accreditation, maintain evidence of compliance with those requirements.

Based on the requirements described in section 7 of this Manual, the following evidence of capacity to comply is required for proposed new schools or established registered schools to be considered for initial accreditation.

Any difference in the description of initial accreditation requirements in this section and those described in section 7 is only intended to take account of the fact that compliance with some requirements cannot be demonstrated until the school begins to operate as an accredited school. On commencing operation, the requirements in section 7 apply.

8.1.1 Record of School Achievement

Evidence of capacity to comply

A proposed non-government school must have in place policies and procedures to monitor the compliance of each student with the requirements for eligibility for the award of the Record of School Achievement.

A proposed non-government school must provide evidence of:
- the total number of hours it intends to allocate to each course
- the scope and sequence of proposed learning units mapped against the content and outcomes of the relevant Board syllabus for each course
- resources and equipment that will be available for each KLA
- assessment policies and procedures which comply with the requirements of the Assessment Certification Examination (ACE) website. The assessment policies should include statements of the proposed procedures relating to the allocation of grades
8.1 Evidence of capacity to comply

A proposed non-government school must have in place policies and procedures to monitor the compliance of each student with the requirements for eligibility for the award of the Higher School Certificate.

A proposed non-government school must provide evidence of:

- the total number of hours to be allocated to each Preliminary and HSC course
- the scope and sequence of proposed learning units mapped against the content and outcomes of the relevant Board syllabus for each course
- resources and equipment that will be available for each KLA
- assessment policies and procedures that comply with the requirements of the ACE website.

The assessment policies should include statements of the proposed procedures relating to:

- organisational details of the proposed assessment program for each course, giving the number and types of assessment tasks, components and weightings, and the scheduling of the tasks
- marking, recording and reporting student achievement in assessment tasks
- administrative arrangements associated with absence from an assessment task, late submission of tasks due to illness or misadventure, malpractice and invalid or unreliable tasks
- student appeals against assessment rankings
- ‘N’ determinations
- providing students with written advice about the school’s requirements for the assessment in each course.
- confirmation that the school will have policies for disability provisions in accordance with the ACE website
- overview of the proposed process for reporting student achievement.

8.1.3 Quality of the educational program

Evidence of capacity to comply

A proposed non-government school must provide evidence of:

- the documented process it will have in place to maintaining records to demonstrate student achievement
- a documented process it will have in place to maintaining records to demonstrate the standard of teaching courses at the school such as evidence of
  - the consistency between syllabus/course outcomes, the scope and sequence of
    the teaching program, teaching and learning activities and samples of student work
– student evaluation and teacher reflection/evaluation of teaching and learning activities
– progressive achievement of students overtime
• the range of educational facilities it will have in place for each of the courses it intends to offer taking into account potential student numbers, whether the facilities will be on-site or off-site and the frequency of access to off-site facilities.
9 Procedures for Forming a Registration System, Recommending Registration/Accreditation of Member Schools and Monitoring Registration Systems

The following information provides details about the procedures involved in:

- applying for approval to form a system of non-government schools for the purposes of the Education Act
- applying to make changes to the system’s monitoring process
- applying for initial provisional registration(initial exemption from provisional registration/initial provisional accreditation of member schools or proposed new member schools
- applying for renewal of registration/exemption from registration/accreditation of member schools
- applying for initial provisional registration/initial exemption from provisional registration/initial provisional accreditation for new Year(s) of schooling of member schools
- monitoring the compliance of a system of non-government schools.

All references in this Manual to the Registration Committee making recommendations to the Minister concerning registration or decisions concerning accreditation are based on the Registration Committee exercising the Board’s delegation on registration and accreditation matters within prevailing Board policies. The process of review by the Board of decisions or recommendations made by the Registration Committee is described at section 11 of this Manual.

Forms in relation to each of the above procedures are available from the Office of the Board of Studies in paper and electronic (disk) format at the following address or on the internet at the Board’s website: www.boardofstudies.nsw.edu.au.

All forms need to be submitted at the relevant times and with relevant documentation as required to:

Registration and Accreditation Unit
Office of the Board of Studies NSW
GPO Box 5300, SYDNEY NSW 2001
9.1 Applying for approval to form a registration system or to make changes to an approved system’s monitoring process

9.1.1 Applicants seeking to form a system of non-government schools must use Part A of Form 6 Application for approval to form a system of non-government schools or to make changes to an approved system’s monitoring process.

Applications must be made to the Office of the Board at least nine (9) months before the proposed registration system intends to commence operation. Applications must:

- specify the non-government schools that are intended to be included in the proposed system
- include appropriate evidence that the applicant is the approved authority for the proposed system
- provide evidence that
  - either the system authority will be one of the types of legal entity approved by the Minister or the proprietor of each proposed individual member non-government school of the system will be one of the types of legal entity approved by the Minister
  - a legally binding relationship will exist between the system authority and proposed member schools that allows the system authority to comply with its obligations under the Act
- include a description of the manner in which it is proposed to monitor compliance with the requirements for the registration and, if appropriate, accreditation of the member schools.

The Office of the Board of Studies will:

- acknowledge receipt of the relevant form
- arrange for a Board Inspector to
  - examine the submitted application and documentation stipulated in the application form
  - contact the proposed authority for the proposed system to arrange a meeting
  - identify the evidence of compliance that the proposed system will need to make available during the meeting
  - write a report and make recommendations
- forward the Inspectors’ report, advice and recommendations to the authority for the proposed system for comment
- submit the Inspectors’ report, advice and recommendation and the comments from the authority for the proposed system to the Registration Committee of the Board of Studies
- submit the Registration Committee’s advice to the Minister. This final process may take up to six (6) weeks.

The Minister will notify the authority for the proposed system, in writing, of the decision in relation to the application.

If the application is approved, under section 42 of the Act, the approved authority for the system of non-government schools must apply for initial provisional registration/initial
exemption from provisional registration of the schools that are members of the registration system (including schools already registered under this Act) within six (6) months of the Minister’s approval of the system.

9.1.2 Applicants seeking to make changes to an approved registration system’s monitoring process must use Part B of Form 6 Application for approval to form a system of non-government schools or to make changes to an approved system’s monitoring process.

Applications must be made to the Office of the Board at least nine (9) months before the approved authority intends to introduce the proposed changes. Applications must include a description of the proposed changes to system’s monitoring process.

The Office of the Board of Studies will:
- acknowledge receipt of the relevant form
- organise for a Board Inspector to
  - examine the submitted application and any documentation submitted with the application form
  - contact the approved authority’s representative to arrange a meeting
  - identify the evidence of compliance that the approved authority’s representative will need to make available during the meeting
  - examine any evidence of compliance requested by the Inspectors
  - write a report and make recommendations
- forward the Inspectors’ report, advice and recommendations to the approved authority’s representative for comment
- submit the Inspectors’ report, advice and recommendation and the comments from the approved authority’s representative to the Registration Committee of the Board of Studies
- submit the Board of Studies Registration Committee’s advice to the Minister. This final process may take up to six weeks.

The Minister will notify, in writing, the approved authority for the registration system of the decision in relation to the application.

9.2 Application from an approved authority for a registration system for registration/accreditation of member schools

Applications on behalf of member schools by an approved authority or newly approved authority for a system of non-government schools are made using Form 7 Application from an approved authority for registration/accreditation of member schools.

Form 7 must be used by an approved authority to:
- recommend the renewal of registration/exemption from registration and, if applicable, accreditation of member schools
- recommend the initial provisional registration/exemption from provisional registration and, if applicable, provisional accreditation of
  - proposed new schools
  - proposed new Year(s) of schooling of an existing member school
  - a new member school
Form 7 must be used by a newly approved authority for a system of non-government schools to apply for provisional registration/exemption from provisional registration and, if applicable, provisional accreditation of all member schools.

Applications must be made to the Board:
- by 31 March in the year the current registration/exemption from registration/accreditation is due to expire
- nine (9) months before the approved authority intends to commence operation a proposed new school
- nine (9) months before a member school intends to commence operation of proposed new Year(s)
- within six (6) months of a new member school joining the registration system
- nine (9) months before a member school with registration/exemption from registration intends to commence operation of initial provisional accreditation

Following the submission of an application for renewal of registration/exemption from registration/accreditation and the system authority’s consideration of the evidence of compliance with the requirements, the approved authority for the system of non-government schools will be required to:
- provide a report to the Registration Committee of the Board of Studies regarding the compliance of each member school with the registration and/or accreditation requirements
- make recommendation(s) to the Registration Committee of the Board of Studies related to the registration/exemption from registration and/or accreditation of the member school(s)
- certify that the member school(s) meet the requirements for registration and/or accreditation throughout the registration/accreditation period.

Following the submission of an application for provisional registration/exemption from provisional registration/provisional accreditation and the registration system authority’s consideration of the evidence of capacity to comply with the requirements, the approved authority for the system of non-government schools will be required to:
- provide a report to the Registration Committee of the Board of Studies regarding the capacity of each proposed member school to comply with the registration and/or accreditation requirements
- make recommendation(s) to the Registration Committee of the Board of Studies related to the provisional registration/exemption from provisional registration and/or provisional accreditation of the proposed member school(s)
- certify that the member school(s)/proposed member school(s) demonstrate the capacity to meet the requirements for registration and/or accreditation upon commencing operation and throughout the registration/accreditation period.

The Office of the Board of Studies will:
- acknowledge receipt of the relevant form, the report from the approved authority and the approved authority’s recommendation(s)
submit the application, the approved authority’s report, the approved authority’s recommendation(s) and any comments from the approved authority to the Registration Committee of the Board of Studies

submit the Registration Committee’s advice to the Minister

forward relevant certificate(s) if successful. This final process may take up to six (6) weeks.

9.3 Recommendation from the approved authority for a registration system to change the registration/accreditation status of a member school

An approved authority for a system of non-government schools must use Form 8 Recommendation from an approved authority to change the registration/accreditation status of a member school to recommend to the Board of Studies a change in the registration/accreditation status of a member school to provisional registration/accreditation where the system has concerns that the member school may not meet the requirements of the Act.

The approved authority for a system of non-government schools may submit Form 8 to the Board of Studies at any time.

Following submission of Form 8 by the approved authority for the system of non-government schools, the Office of the Board of Studies will:

• acknowledge receipt of the form and any associated documentation
• organise for an Inspector to
  – contact the approved authority and, where relevant, the member school to discuss the recommendation and/or request further documentation if required
  – visit the authority for the registration system and/or the member school if required
  – prepare a report for the Registration Committee of the Board of Studies
• forward the recommendation and any associated documentation and the Inspector’s report to the Registration Committee of the Board of Studies
• provide written feedback to the approved authority and, where relevant, the member school.

9.4 Application for Board approval to modify part of a Board syllabus from an approved authority for a registration system or a member school(s)

An approved authority for a system of non-government schools must use Form 9 Application for Board approval to modify part of a Board syllabus to:

• apply as an approved system authority on behalf of a member school(s)
• apply as a member school for Board approval to modify part of a Board syllabus.

Applications must be made to the Board nine (9) months prior to the intended date for implementing the proposed modified outcomes.
The Board may approve the use of modified outcomes for part of a Board syllabus if the Board is satisfied that:

- the identified Board of Studies outcome(s) are incompatible with the educational philosophy and/or religious outlook of the school
- the proposed modified outcome(s) are compatible with the educational philosophy and/or religious outlook of the school
- the proposed modified outcome(s) comply with the curriculum guidelines developed by the Board and approved by the Minister.

Following submission of Form 9 by the approved authority for the system of non-government schools or the member school the Office of the Board of Studies will:

- acknowledge receipt of the relevant form and any associated documentation
- organise for an Inspector to
  - contact the approved authority and, where relevant, member school(s) to discuss the application and/or request further documentation if required
  - visit the authority for the registration system and/or member school(s)
  - prepare a report for the Registration Committee of the Board of Studies
- forward the application and any associated documentation and the Inspector’s report to the Registration Committee of the Board of Studies
- provide written feedback to the approved authority and, where relevant, member school(s).

9.5 Returns to the Board of Studies

Under the Education Act 1990, an approved authority for a system of non-government schools is required to notify the Board of Studies in relation to the requirements for a system of non-government schools and the requirements of registration/accreditation for member schools (see section 4.6 of this Manual).

The approved authority must use Form 10 Returns to the Board from an approved authority to make a return to the Board of Studies. The time frame for submitting Form 10 varies in relation to the notification to be made (see section 4.6 of this Manual and/or Form 10).

The Office of the Board of Studies will:

- acknowledge receipt of the form and any additional information to the approved authority
- examine the form and any additional information
- process the form as required including, where appropriate
  - registering any change of details
  - organising for an Inspector to
    - contact the approved authority to discuss the return and/or request further information if required
    - visit the authority for the registration system and/or member school(s) if required
    - forward the notification to the Registration Committee of the Board of Studies for further consideration and/or recommendation
    - provide written feedback to the approved authority as required.
9.6 Monitoring the compliance of a system of non-government schools

Each year the Office of the Board of Studies will:

- organise for a Board Inspector to:
  - contact the representative of the approved authority for the system of non-government schools
  - discuss the processes that are in place to monitor the compliance of member schools with the requirements of the Act
  - discuss the approved authority’s plan for monitoring member school’s compliance and identify the aspects of the approved authority’s monitoring process that are to be monitored by Board inspectors
  - identify any evidence of compliance that may be required, including any visit(s) to member schools to be undertaken
  - arrange suitable time(s) for visit(s) to be undertaken to member school(s) and information about the processes to be provided
  - examine the information provided and undertake any visit(s)
  - discuss the evidence of compliance with the representative of the approved authority
  - write a report, including advice as to whether the monitoring procedures should be confirmed

- forward the Inspectors’ report and advice to the approved authority for comment
- submit the Inspectors’ report, advice and the comments from the approved authority to the Registration Committee of the Board of Studies
- submit the Board of Studies Registration Committee’s advice to the Minister
- confirm, in writing the advice from the Minister to the approved authority.
10  Refusal, Non-renewal or Cancellation of Registration and/or Accreditation

The Act makes provision for the registration and accreditation of a new school to be refused or for the registration and/or accreditation of an established non-government school not to be renewed or to be cancelled.

10.1 Process leading to refusal, non-renewal or cancellation of registration of a non-government school

An approved authority for a system of non-government schools considers any documentation provided by the member school and observations during a visit to the member school in order to form opinions about compliance with the requirements of the Act relating to registration. When it is an approved authority’s judgement that a new or established school has been unable to demonstrate compliance with the requirements, a representative of the authority will discuss these concerns with the principal (or equivalent) and proprietor (where appropriate) and provide an opportunity for the member school to provide further evidence of compliance.

If, following consideration of any further evidence of compliance the member school provides, the approved authority for the system of non-government schools has formed the judgement that the member school does not comply with the requirements of the Education Act in relation to registration, the approved authority will prepare a report that includes advice that the application for renewal of registration of the member school be refused or the registration of the school be cancelled.

Where advice from the approved authority for the system of non-government schools is provided to the Registration Committee of the Board of Studies to refuse or cancel the registration of a member school, the principal (or equivalent) and proprietor (where appropriate) of the member school will be given written notice detailing those registration requirements with which, in the opinion of the approved authority, the school does not comply. The principal (or equivalent) and proprietor (where appropriate) will be provided with the opportunity to make written comment to the Registration Committee of the Board of Studies regarding the advice of the approved authority.

If, following consideration of the Inspector’s report and advice and the comments from the member school’s principal (or equivalent) and proprietor (where appropriate), the Registration Committee, under delegation from the Board of Studies, is satisfied that the requirements of the Education Act in relation to registration are not being complied with, the Registration Committee of the Board of Studies will notify the principal (or equivalent) and proprietor (where appropriate) of the member school and the approved authority for the system of non-government schools that it intends to recommend the refusal of the application for initial, or renewal of, registration or to recommend that registration be cancelled.
The principal (or equivalent) and proprietor (where appropriate) of the member school may make an appeal against the recommendation of the Registration Committee of the Board of Studies (refer to section 11.2 of the Manual).

If the appeal is unsuccessful, under section 59 of the Act the Minister may cancel the registration of a non-government school by giving written notice to the approved authority for the system of non-government schools and the principal (or equivalent) or proprietor (where appropriate) of the member school. If the registration of a school is cancelled or the renewal of registration is refused, parents of the students at the school must be notified in writing that the school is not registered and is no longer able to operate.

10.2 Process leading to refusal, non-renewal or cancellation of accreditation of a non-government school

An approved authority for a system of non-government schools considers any documentation provided by the member school and observations during a visit to the member school in order to form opinions about compliance with the requirements of the Act relating to accreditation for the Record of School Achievement and/or Higher School Certificate. When it is an approved authority’s judgement that a new or established school has been unable to demonstrate compliance with the requirements, a representative from the approved authority will discuss these concerns with the principal (or equivalent) and proprietor (where appropriate) and provide an opportunity for the member school to provide further evidence of compliance.

If, following consideration of any further evidence of compliance the member school provides, the approved authority has formed the judgement that the member school does not comply with the requirements of the Education Act in relation to accreditation for the Record of School Achievement and/or Higher School Certificate, the approved authority will prepare a report that includes advice that the application for renewal of accreditation of the member school be refused or the accreditation of the school be cancelled.

Where advice from the approved authority for a system of non-government schools is provided to the Registration Committee of the Board of Studies to refuse or cancel accreditation of the school, the principal (or equivalent) and proprietor (where appropriate) of the member school will be given written notice detailing those accreditation requirements with which, in the opinion of the approved authority, the member school does not comply. The principal (or equivalent) and proprietor (where appropriate) will be provided with the opportunity to make written comment to the Registration Committee of the Board of Studies regarding the advice of the approved authority.

If, following consideration of the Inspector’s report and advice and the comments from the member school’s principal (or equivalent) and proprietor (where appropriate), the Registration Committee, under delegation from the Board of Studies, is satisfied that the requirements of the Education Act in relation to accreditation are not being complied with, the Board of Studies Registration Committee will notify the principal (or equivalent) and proprietor (where appropriate) of the member school and the approved authority for the system of non-government schools that it intends the refusal of the application for initial, or renewal of, accreditation or to cancel accreditation.
The principal (or equivalent) and proprietor (where appropriate) of the member school may make an appeal against the decision of the Registration Committee of the Board of Studies (refer to section 11.2 of the Manual).

Where the accreditation of a member school is cancelled or the renewal of accreditation is refused, parents of students at the school must be notified in writing that students who complete their Year 10 course at the school will not be eligible for a Record of School Achievement and the consequences of the school not being accredited for potential candidates for that Certificate.
11 Appeals for Review of Certain Decisions

11.1 Refusal of approval to form a system or withdrawal of approval for a system of non-government schools

An applicant or approved authority for a system of non-government schools may request an internal review of a Board of Studies Registration Committee recommendation where the Board's Registration Committee has recommended to the Minister that the approval to form a system of non-government schools be refused or be withdrawn.

The outcome of an internal review is determined by the full Board of Studies. The review process is undertaken by two Board Inspectors who were not substantially involved in making the original recommendation. The documentation considered by the review Inspectors includes that submitted by the applicant or approved authority previously and any additional documentation that the applicant or approved authority wishes to have considered, the Board of Studies Registration Committee's decision and the reasons for that decision. An internal review report is prepared by the Board Inspectors.

In dealing with an internal review of a recommendation by the Board of Studies Registration Committee to the Minister to refuse or withdraw approval of a system of non-government schools, the full Board of Studies will consider any written comments from the applicant or approved authority in relation to the Board of Studies Registration Committee's decision, the Registration Committee's recommendation and the reasons for that recommendation and the internal review report prepared by the Inspectors.

There is no recourse to the Administrative Decisions Tribunal against the recommendations made by the Registration Committee of the Board of Studies or to the Board, following an internal review, or in relation to a decision by the Minister to refuse or withdraw approval of a system of non-government schools.

11.2 Refusal, non-renewal or cancellation of registration and/or accreditation

A school that is a member of a system of non-government schools may request an internal review of a Registration Committee of the Board of Studies recommendation or decision under the following circumstances:

- where the Registration Committee, under delegation from the Board of Studies, has decided to recommend to the Minister that the registration of a non-government school be refused, not be renewed or be cancelled
- or
- where the Registration Committee, under delegation from the Board of Studies, has decided not to accredit a school, not to renew the accreditation of a school or to cancel a school’s accreditation.

The outcome of an internal review is determined by the full Board of Studies. The review process is undertaken by a Board Inspector who has not been substantially involved in making the original recommendation. The documentation considered by the review Inspector includes that submitted by the applicant previously and any additional
documentation that the applicant wishes to have considered, the Board of Studies Registration Committee decision and reasons for that decision.

If the internal review supports the Board of Studies Registration Committee's original recommendation and/or decision, the member school may appeal to the Administrative Decisions Tribunal against the recommendation and/or decision.

The appeal process involves the following steps:

- Following an internal review, the Board gives the member school or applicant written notice of the decision to make such a recommendation or decision.
- The member school or applicant has twenty-eight (28) days in which to lodge an appeal in writing with the Registrar, Administrative Decisions Tribunal.
- The Tribunal contacts the applicant or member school to arrange a date on which the appeal will be heard.
- The Tribunal considers the appeal and makes a recommendation to the Minister. The Minister considers the recommendation of the Tribunal and makes a decision as to whether the member school should be registered/accredited.

Under the Education Act, there is no appeal against the Minister’s decision.

11.3 Reduction in the duration of registration and/or accreditation

A member school may request an internal review of an approved authority's determination to make a recommendation to the Registration Committee of the Board of Studies under the following circumstances:

- where the approved authority will recommend to the Registration Committee that the duration of registration be reduced, or
- where the approved authority will recommend to the Registration Committee to reduce the duration of accreditation or to reduce it in so far as it relates to one of the recognised certificates.

In the above circumstances, where an internal review is requested by the principal (or equivalent) or the proprietor (where appropriate), the review is conducted by the registration system. The registration system determines the outcome of the review.

The review process is undertaken by persons not involved in the initial assessment of the school’s application for registration or accreditation. The documentation considered by the review includes that submitted by the applicant previously and any additional documentation that the applicant wishes to have considered, the intended recommendation and the reasons for that recommendation.

In dealing with an internal review of a recommendation to place a member school on provisional registration, the approved authority will consider any written comments from the principal (or equivalent) and proprietor (where appropriate) in relation to the original advice, the recommendation and the reasons for the recommendation and the internal review report prepared by persons not associated with the original inspection report.

11.4 Limitation or cessation of registration

Under the Education Regulation 2007 the approved authority for a registration system must notify the Board of Studies when a member school ceases to operate or closes as
soon as possible but not later than one (1) month after such a change has occurred (see sections 2.5.9 and 4.6 of this Manual).

In the event that a non-government school or registration system notifies the Board that the school is to close or cease operating or has closed or ceased operating, the Board will recommend to the Minister that a written notice be sent to the school and registration system confirming the relevant date of the cessation of the school’s registration.

In the event that the Board is advised that a non-government school has closed or ceased operation, and that advice is not the result of a notification by the school or registration system, the Board will appoint a Board Inspector to investigate. Where the Inspector forms the opinion that the school has ceased operating or has closed, the Inspector will prepare a report that includes a recommendation that the school’s registration be limited, in the case of ceasing operation for less than one (1) year. In the case of the school ceasing operation for at least two (2) years, or closing, the Inspector’s recommendation will be that the school’s registration cease.

The approved authority for the registration system and/or the member school’s proprietor and/or principal (or equivalent) will be provided with the opportunity to make written comment to the Board of Studies Registration Committee regarding the advice of the Inspector. In considering the Inspector’s report and any written comment from the registration system, proprietor and/or principal (or equivalent), the Registration Committee, under delegation from the Board, will determine whether it intends to recommend to the Minister that the school’s registration be limited or cease. Should the Committee make such a determination, the registration system, proprietor and/or principal (or equivalent) of the member school will be informed in writing. Under these circumstances, the registration system and/or the proprietor and/or principal (or equivalent) of the member school may seek a review of the Committee’s decision.

The outcome of an internal review is determined by the full Board of Studies. The review process is undertaken by a Board Inspector not involved in the initial assessment of the school’s circumstances. The documentation considered by the review includes that submitted previously by the registration system, proprietor and/or principal (or equivalent), any additional documentation that the registration system, proprietor and/or principal (or equivalent) wishes to have considered, the original Inspector’s advice, the Registration Committee’s intended recommendation and the reasons for that recommendation.

In dealing with an internal review of a recommendation by the Committee to the Minister to limit or cease the registration of a school, the full Board of Studies will consider the original Inspector’s advice, any written comments from the registration system, proprietor and/or principal (or equivalent) in relation to the Inspector’s advice, the Registration Committee’s recommendation and reasons for the recommendation, and the internal review report prepared by another Board Inspector not associated with the original report.

There is no recourse to the Administrative Decisions Tribunal against a recommendation to limit or cease the registration of a school.
11.5 Rejection of an application to modify part of a Board syllabus

When it is an Inspector’s judgement that there are concerns that the proposed modifications do not meet the requirements of the Education Act, the Inspector will discuss these concerns with the principal (or equivalent) and proprietor (where appropriate) and provide opportunity for the school to provide further information.

If, following consideration of any further information the school provides, the Inspector continues to have concerns that the modifications may not comply with the requirements of the Education Act in relation to modifying part of a Board of Studies syllabus, the Inspector will prepare a report that includes a recommendation that the application be rejected.

Where a recommendation is made to reject an application to modify part of a Board syllabus, the principal (or equivalent) and proprietor (where appropriate) of the school will be given written notice detailing those requirements of the Education Act with which, in the opinion of the Inspector, the proposed modifications may not comply.

The principal (or equivalent) and proprietor (where appropriate) will be provided with the opportunity to make written comment to the Registration Committee of the Board of Studies regarding the recommendation of the Inspector. Following consideration of the Inspector’s advice and any written comment from principal (or equivalent) and/or proprietor (where appropriate) of the school, the Registration Committee will determine whether it intends to make a recommendation to the Board of Studies that the application to modify part of a Board syllabus be rejected. The principal (or equivalent) and proprietor (where appropriate) will be informed in writing of the Registration Committee’s intention to recommend to the Board that the application to modify part of a Board syllabus be rejected. The principal (or equivalent) and proprietor (where appropriate) may seek a review of the decision.

The outcome of an internal review is determined by the full Board of Studies. The review process is undertaken by Board Officers not involved in the initial assessment of the system’s or the school’s application for approval to modify part of a Board syllabus. The documentation considered by the review includes that submitted by the applicant previously and any additional documentation that the applicant wishes to have considered, the Inspector’s advice, the Registration Committee’s intended recommendation and the reasons for that recommendation.

In dealing with an internal review of a recommendation by the Committee to the Board to reject an application to modify part of a Board syllabus, the full Board of Studies will consider the Inspector’s advice, any written comments from the principal (or equivalent) and proprietor (where appropriate) in relation to the Inspector’s advice, the Registration Committee’s recommendation and reasons for the recommendation, and the internal review report prepared by another Board inspector not associated with the original inspection report.

If the Registration Committee or, following an internal review, the Board, is satisfied that the proposed modifications do not meet the requirements of the Education Act, the Registration Committee or, following an internal review, the Board will recommend that the application to modify part of a Board syllabus be rejected.
There is no recourse to the Administrative Decisions Tribunal against decisions to reject an application to modify part of a Board syllabus.

In the event that the Board is unable to approve a modification because of an inconsistency between the modification sought and the curriculum guidelines, the school may request a review of that aspect of the curriculum guidelines.
## 12 Glossary

This glossary is provided to assist schools. Where there is any conflict between these definitions and the definitions in the Act or any other legislation, the statutory definitions prevail.

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>accreditation</td>
<td>Compliance with Part 8 of the Education Act 1990 (NSW) including section 94, for the Record of School Achievement, or section 95 for the Higher School Certificate, allowing entry of candidates for the award of these credentials.</td>
</tr>
<tr>
<td>ACE website</td>
<td>The Board’s Assessment Certification Examination website.</td>
</tr>
<tr>
<td>actual retention rates</td>
<td>Retention rates based on data relating to actual students who have been tracked at two different points in their school career.</td>
</tr>
<tr>
<td>Administrative Decisions Tribunal (ADT)</td>
<td>The Tribunal to which a school proprietor or principal can lodge an appeal against a recommendation of the Board that a school not be registered or a decision of the Board that a school not be accredited.</td>
</tr>
<tr>
<td>apparent retention rates</td>
<td>Retention rates based on simple comparisons of enrolment numbers, for example Year 10 numbers in 2001 compared with Year 12 numbers in 2003.</td>
</tr>
<tr>
<td>approved authority for a registration system</td>
<td>The person or body who or which is appointed for the time being by: (a) the proprietor or proprietors of the non-government schools, or (b) the person or persons who propose to establish the non-government schools to act on their behalf in relation to the registration system or proposed system.</td>
</tr>
<tr>
<td>Australian Dietary Guidelines</td>
<td>Guidelines that provide advice to the general population about healthy food choices, so that their usual diet contributes to a healthy lifestyle and is consistent with minimal risk for the development of diet-related disorders.</td>
</tr>
<tr>
<td>Board</td>
<td>The Board of Studies NSW.</td>
</tr>
<tr>
<td>boarding facilities</td>
<td>Facilities, including overnight accommodation, provided by the school itself or under contractual arrangement for students enrolled at the school. This excludes accommodation provided for day pupils away from school premises during a brief school trip and ‘home stay’ accommodation.</td>
</tr>
</tbody>
</table>
Board Inspector

An officer of the Board, employed or appointed under section 104 of the Education Act to enable the Board to exercise its functions under section 102 of the Education Act.

campus

A campus is part of a registered non-government school where that part is located at a different site and used for the delivery of courses as described by Parts 1, 3, 7 and 8 of the Education Act 1990 or for the provision of amenities for teachers and students participating in those courses or for the provision of boarding facilities.

complaint

A grievance, expression of dissatisfaction or formal allegation.

Community Services

Government agency responsible for community services (formerly Department of Community Services (DoCS)).

compulsory years of schooling

Six from the age of six (6) years to the age at which a child completes Year 10 of secondary education (subject to the participation requirements of section 21B(3) of the Education Act) or the age of seventeen (17) fifteen (15) years, whichever occurs first inclusive, taken from the child’s birth date.

corporal punishment

The application of physical force to punish or correct the student, but not including the application of force to prevent personal injury to, or damage to or the destruction of property of, any person (including the student).

curriculum guidelines

Guidelines developed by the Board and approved by the Minister.

DEC

NSW Department of Education and Communities.

direct on-site supervision

Direct on-site supervision occurs when a qualified teacher acts as a supervisor and provides advice on the quality and appropriateness of pedagogy and student behaviour management strategies to a member of staff who is working towards the standard of professional teacher competence. The supervisor is on the same school site but does not need to be present for every lesson of the teacher being supervised.

distance education

The delivery of courses of study by a school to students enrolled in the school during which the students and teachers are not regularly in the presence of each other but communicate with each other in writing, by print or by electronic or other means.

Education Act


exclusion

The act of preventing a student’s admission to a number of schools.
expulsion  The permanent removal of a student from one particular school.

external provider  Any organisation that the school has entered into an arrangement with to deliver a specified course of study that is part of the curriculum as described by Parts 1, 3, 7 and 8 of the Education Act to a student or students enrolled at the school.

legal entity approved by the Minister to operate an individual non-government school  A registered company or trust including religious organisations.

mandatory notifier  Any teacher or other identified person who has a legal obligation to notify Community Services of any case of suspected reportable conduct.

Manual  Registration Systems and Member Non-government Schools (NSW) Manual, Board of Studies NSW.

mentally incapacitated person  A person who is a temporary patient, a continued treatment patient or a forensic patient within the meaning of the Mental Health Act 2007 (NSW), or a protected person within the meaning of the NSW Trustee and Guardian Act 2009.

minimum curriculum  For primary schools, section 8 and for secondary schools, section 10 of the Education Act 1990 (NSW). Not applicable to schools providing education of a kind, or for children of a kind, as prescribed by the Regulations.

Minister  Minister for Education, New South Wales.

non-government school  An institution that is not owned by the State Government, is registered by the Minister or granted exemption from registration by the Minister, and whose major activity is the provision of education, either primary or secondary (or both) or of a kind, or for children of a kind, prescribed by the regulations.

Office of the Board of Studies (OBOS)  Provides professional and administrative support and services to the Board and administers the non-government school registration program under delegation from the Board.

‘on-site’ supervisor  Person who supervises a distance-education student’s tests, examinations and/or assessment tasks. ‘On-site’ supervisors may be family or community members who have not had any teacher training.

outside tutor  A person other than a teaching staff member of the school, whom the school has approved to deliver a specified course that is part of the curriculum as described by Parts 1, 3, 7 and 8 of the Education Act to
students enrolled in the school.

<table>
<thead>
<tr>
<th>term</th>
<th>definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>policy</td>
<td>An official statement of the school's goals or objectives in an area of school governance which outlines the associated procedures, activities or other key elements in a way that demonstrates how these goals or objectives are to be achieved. This Manual specifies those areas of school governance where it is a registration/ accreditation requirement for a school to have a policy.</td>
</tr>
<tr>
<td>principal</td>
<td>The most senior member of the teaching staff of a school, with responsibility for the effective and efficient day-to-day operations of the school, including compliance with the Education Act.</td>
</tr>
<tr>
<td>procedural fairness</td>
<td>Application of the 'hearing rule' and the 'right to an unbiased decision' when implementing policies and procedures where decisions are to be made which affect the rights of others.</td>
</tr>
<tr>
<td>proprietor</td>
<td>The legal entity that owns the school or schools.</td>
</tr>
<tr>
<td>recognised teacher institution</td>
<td>Any accredited tertiary institution that offers courses in teacher education.</td>
</tr>
<tr>
<td>registration</td>
<td>Compliance with Part 7 the Education Act including section 47, relating to approval to operate as a school, but does not include entering candidates for the Record of School Achievement and the Higher School Certificate Examination.</td>
</tr>
<tr>
<td>Registration Committee of the Board of Studies</td>
<td>A standing committee of the Board of Studies which has the delegation under section 119 of the Education Act to exercise the Board's powers relating to registration and accreditation.</td>
</tr>
<tr>
<td>registration system</td>
<td>A grouping of 20 or more schools (or, with the Minister's approval, 11 to 19 schools) which has been approved by the Minister to ensure compliance with the requirements for registration and, if appropriate, accreditation for the schools within that system.</td>
</tr>
<tr>
<td>reportable conduct</td>
<td>Conduct or behaviour which must be reported to the Ombudsman and/or Commission for Children and Young People pursuant to the Ombudsman Act 1974 and/or the Commission for Children and Young People Act 1998, including child sexual assault and sexual misconduct.</td>
</tr>
<tr>
<td>representative of the approved authority for a registration system</td>
<td>A person appointed by the approved authority for a registration system to act on behalf of the system.</td>
</tr>
<tr>
<td>'residential school' sessions</td>
<td>Periods of time when students and teachers are in the presence of each other at the same physical location to undertake learning activities</td>
</tr>
</tbody>
</table>
related to the educational program provided by the school including a specific focus on the personal and social development of students.

**responsible person for a school**

(a) the proprietor of the school and, if the proprietor is a corporation, each director or person concerned in the management of the school, or

(b) a member of the governing body of the school, or

(c) the principal of the school.

**risk management**

A management plan for assessing the potential for harm and taking action towards minimising the risk of harm. This may include a plan for responding to serious incidents and emergencies.

**safe environment**

One where the risk of harm is minimised and students are secure. 'Harm' relates not only to dangers in the built environment but also refers to violence, physical threats, verbal abuse, threatening gestures, sexual harassment and racial vilification.

**serious incident**

An event which:

(a) causes disruption to a school, or

(b) creates significant danger or risk that could traumatically affect individuals within the school, or

(c) impacts on the effective operation of the school.

**Special School**

A school classified by the Australian Government as Special must provide evidence that its students have been assessed by a person with relevant qualifications as having intellectual, sensory, physical, social/emotional or multiple impairments to a degree that satisfies the criteria for enrolment in special education services or programs provided by the State, where/if such services are provided by the State.

**supportive environment**

An environment that facilitates and enhances the social, academic, physical and emotional development of students.

**suspension**

A temporary debarment of a student from all of the classes that a student would normally attend at a school.

**system**

See registration system.

**Vocational Education and Training (VET) course**

A course that has been approved by both the Board of Studies and Australian Skills Quality Authority (ASQA) VETAB for teaching in schools. Students receive credit towards both their HSC and an industry training qualification. See the ACE website for more details.
13 Appendix – Information about Other Legislation

The Board’s responsibilities in relation to the registration and accreditation of non-government schools and the monitoring of registration systems derive from the Education Act 1990.

Over and above this Act, however, schools and registration systems must be cognisant of a range of Commonwealth and State legislative requirements with which they may need to comply.

It is the responsibility of schools and registration systems to ensure that the requirements of relevant legislation are understood and met, as appropriate.

At the time of printing this Manual, the following Acts and regulations were considered relevant points of reference for schools and registration systems. This list of Acts is not exhaustive and the information should be checked with the appropriate source to ensure accuracy, relevance and currency.

- Disability Discrimination Act 1992 (Cth) and Disability Standards for Education 2005 (Cth) [www.comlaw.gov.au]
- Privacy Act 1988 (Cth) [www.privacy.gov.au]
- Privacy and Personal Information Protection Act 1998 (Cth) [www.privacy.gov.au]
- Environmental Planning and Assessment Act 1979 (NSW) [www.legislation.nsw.gov.au]
- Poisons and Therapeutic Goods Act 1986 (NSW) and the Poisons and Therapeutic Goods Regulation 2008 (NSW) [www.legislation.nsw.gov.au]

13.1.1 Information about Australian Government Legislation

13.1.1.1 Australian Commonwealth Register of Institutions in Courses for Overseas Students (CRICOS)

The Board of Studies is the designated authority in NSW for approving school providers seeking to deliver courses to overseas students in NSW.

For details of the Board’s requirements for approval and the application process see the Guidelines for Approved NSW School Providers Delivering Courses to Overseas Students. The Guidelines are available on the Board’s website: http://www.boardofstudies.nsw.edu.au/overseas-students/pdf_docs/SWOS-Guidelines.pdf

Schools that are members of a system of non-government schools should contact their school’s system authority for initial advice.
13.1.1.2—Overseas persons who hold Student visas and are undertaking study in an accredited school

A person from overseas may be granted a Student visa to undertake a full-time course registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS). Student visas are subject to conditions intended to govern the stay in Australia of students and their families. These conditions include requirements that ensure the person who holds a Student visa maintains enrolment in the course for which the visa was granted, attends classes, continues to meet course requirements and achieves a satisfactory academic result. The requirements also place strict limits on any employment the person granted the Student visa may undertake.

Education providers have responsibilities under the Migration Act 1958, amended in 2001, and the Educational Services for Overseas Students Act 2000 to maintain specific records and to notify the Department of Immigration and Citizenship (DIAC) if a person who holds a Student visa fails to comply with Student visa conditions.

The conditions for Student visas and the responsibilities of education providers are detailed on the DIAC website at www.immi.gov.au.

13.1.1.3—The Disability Discrimination Act 1992 and Disability Standards for Education 2005

The Disability Discrimination Act 1992 makes it unlawful for an educational authority to discriminate against someone because that person has a disability. This includes all public and private educational institutions, primary and secondary schools, and tertiary institutions such as TAFE, private colleges and universities.

The objects of the Act are to:
(a)—eliminate, as far as possible, discrimination against persons on the grounds of disability
(b)—ensure, as far as practicable, that persons with disabilities have the same rights to equality before the law as the rest of the community

The Disability Discrimination Act 1992 requires that schools provide equality of educational opportunity to students with disabilities. A school may not need to provide equality of educational opportunities for a student with disabilities if the school can demonstrate that to do so would cause unjustifiable hardship.


The Disability Standards for Education 2005 are formulated under the Disability Discrimination Act 1992 (DDA). The primary purpose of the Standards is to clarify and make more explicit the rights of students with disabilities and the obligations of providers in relation to:
•—enrolment
•—participation
•—curriculum development, accreditation and delivery
•—student support services
•—elimination of harassment and victimisation.
All government and non-government education and training providers are bound by the Standards.

The key concept of the Standards is the principle of treating a student with a disability on the same basis as a student without the disability. Achieving this equality involves education providers making adjustments for students with a disability. Only reasonable adjustments are required. An educational provider can be exempt from making an adjustment where it is proven that such an adjustment would cause unjustifiable hardship.

13.1.1.4 Privacy Act 1988

The Australian government Privacy Act 1988 which was amended by the Privacy Amendment (Private Sector) Act 2000, regulates the way private sector organisations, including non-government schools and registration systems, handle personal information about individuals.

The purpose of the Privacy provision is to ensure that organisations that hold information about people handle that information responsibly. They aim as far as possible to establish a nationally consistent approach to the handling of personal information. The Privacy Act governs how non-government schools must handle personal information.

A key component of the legislation is the mandatory requirement for organisations to comply with the National Privacy Principles. These principles set minimum standards that relate to the collection, security, storage, use, access, correction and disclosure of personal information.

For further information contact the office of the Privacy Commissioner at: www.privacy.gov.au.

13.1.1.5 Other relevant legislation

Non-government schools and registration systems must also be cognisant with other related federal legislation including the:

- Age Discrimination Act 2004
- Race Discrimination Act 1975

13.1.2 Information About NSW Government Legislation

While Board Inspectors may be able to advise schools and registration systems about the implications or relevance of such requirements, it is the responsibility of schools and systems to ensure that the requirements of legislation are understood and met, as appropriate. At the time of printing this Manual, the following Acts and Regulations were deemed appropriate points of reference for schools.

13.1.2.1 Children and Young Persons (Care and Protection) Act 1998

The objects of the Children and Young Persons (Care and Protection) Act 1998 are to ensure that:
(a) children and young persons receive such care and protection as is necessary for their safety, welfare and wellbeing, taking into account the rights, powers and duties of their parents and/or other persons responsible for them

(a) all institutions, services and facilities responsible for the care and protection of children and young persons provide an environment for them that is free of violence and exploitation and provide services that foster their health, developmental needs, spirituality, self-respect and dignity, and

(b) appropriate assistance is rendered to parents and other persons responsible for children and young persons in the performance of their child-rearing responsibilities in order to promote a safe and nurturing environment.

13.1.2.2 Ombudsman Act 1974

The Ombudsman Act 1974 mandates the reporting of allegations of reportable conduct or convictions relating to reportable conduct to the Ombudsman. It states:

(1) The head of a designated government or non-government agency must notify the Ombudsman of the following:

(a) any allegation of reportable conduct, or conviction in relation to reportable conduct, against an employee of the agency of which the head of the agency becomes aware

(a) whether or not the agency proposes to take any disciplinary or other action in relation to the employee and the reasons why it intends to take or not to take any such action

(b) any written submissions made to the head of the agency concerning any such allegation or conviction that the employee concerned wished to have considered in determining what (if any) disciplinary or other action should be taken in relation to the employee.

(2) The notification must be made as soon as practicable and, in the case of the notification of an allegation of reportable conduct or a conviction related to reportable conduct, must be made, in any event, within thirty (30) days of the head of the agency becoming aware of the allegation or conviction (or within such further period as may be agreed to by the Ombudsman).

(3) The head of the agency also has responsibilities, the most important of which is to ensure that allegations of reportable conduct against employees are appropriately and effectively investigated. The Ombudsman can provide guidance regarding the observance of this requirement.

The Child Protection Team of the Ombudsman’s Office welcomes inquiries from schools and other agencies regarding their obligations under Part 3A of the Ombudsman Act 1974. The Child Protection Team is able to provide advice on the notification of allegations and their investigation, the content and presentation of staff training materials and the development of child protection policies. The Child Protection Team can be contacted by phone on (02) 9286 1000 (ask for Child Protection inquiries backup) or by mail to:

NSW Ombudsman
Level 24, 580 George Street
SYDNEY NSW 2000
(Attention: Child Protection Team)
13.1.2.3 Commission for Children and Young People Act 1998

The Commission for Children and Young People Act 1998 established the Commission for Children and Young People (CCYP) as an independent organisation. One of the major functions of the CCYP is to facilitate screening to determine the suitability of people for child-related employment. Part 7 of the Act, Employment Screening, sets out the requirements to screen people seeking child-related employment to determine their suitability.

Part 7 of the Act requires that all people commencing paid work that primarily involves direct contact with children where that contact is unsupervised must be screened. This screening process incorporates:

- a relevant national criminal record check
- a check of relevant Apprehended Violence Orders, and
- a review of relevant completed disciplinary proceedings the applicant may have had in previous employment.

This Act was also amended by the Child Protection Legislation Amendment Act 2002. The amendment enabled the Commissioner of Police to provide information to the CCYP concerning relevant Apprehended Violence Orders.

Part 7 of the Act also imposes specific duties on employers in relation to relevant disciplinary proceeding. The Commission for Children and Young People must be notified of the outcome of completed relevant disciplinary proceedings.

13.1.2.4 Privacy and Personal Information Protection Act 1998

The Privacy and Personal Information Protection Act 1998 set up the Office of the Privacy Commissioner, and gives the Commissioner a number of powers including conducting research, giving out advice and handling complaints about breaches of privacy. Secondly the Act introduces a set of privacy standards for the NSW public sector. These standards regulate the way public sector agencies deal with personal information.

The jurisdiction of the NSW Act is generally limited to the public sector. However, the Privacy Commissioner (NSW) can also investigate and conciliate privacy breaches by organisations and individuals who are not public sector agencies and are not covered by the Federal Privacy Act. The Act also allows for agencies to opt out of one or more of the principles by developing a privacy code of practice.

The information protection principles in the Act cover matters such as the collection, storage, use and disclosure of personal information. The Health Records and Information Privacy Act 2002 (NSW) applies to the State public sector and to acts or practices in the private sector not covered by the Privacy Act.

National Privacy Principles in the Privacy Act 1988 (Cth) protect personal information, including health information, handled by private sector organisations and small businesses in the community. These principles cover many large and some small businesses in the private sector, including private schools, and all private health service providers. They set out rules for the way these organisations and small businesses must collect personal information, the quality of the information, how it is secured and how the information is used and disclosed.
13.1.2.5—Mental Health Act 2007

The Mental Health Act 2007 makes provision with respect to the care, treatment and control of mentally ill and mentally disordered persons and other matters relating to mental health and for other purposes.

The Act also details circumstances where a person is not a mentally ill or mentally disordered person.

The legislation is available at:

13.1.2.6—NSW Trustee and Guardian Act 2009

The NSW Trustee and Guardian Act 2009 makes provision with respect to the management of the property and affairs of persons who are incapable of managing their own affairs by reason of mental or other condition and certain other persons.

The legislation is available at:

13.1.2.7—Work Health and Safety Act 2011

The Work Health and Safety Act 2011 and the Work Health and Safety Regulation (WHS) 2011 contain provisions that require persons conducting a business or undertaking (PCBU) (including employers) to consult with workers on work health and safety matters. The WHS legislation sets out requirements for workplaces related to putting into place systems to identify, assess, control and/or eliminate health or safety risks. It also details how the duty to consult with workers about work health and safety matters can be met.

The WHS legislation provides broad coverage for all workplaces along with specified control measures for particular hazards and industry activities.

The WHS legislation replaces the code of practice for the storage and handling of dangerous goods under the OHS Regulation in 2005. The following legislation and standards have implications for schools under the WHS legislation and should be referred to directly:

- the Australian Code for the Transport of Dangerous Goods by Road and Rail

Details regarding the new legislation, including key changes for NSW, are available on the Workcover NSW website under ‘Work health and safety’ at www.workcover.nsw.gov.au.

13.1.2.8—Environmental Planning and Assessment Act 1979

The Environmental Planning and Assessment Act 1979, updated in 2002, gives the Building Code of Australia the status of regulations. Under this Code, boarding schools are classified as Class 3 buildings. The Building Code contains technical provisions for the design and construction of buildings and other structures and covers such matters as structure, fire resistance, access and egress, services and equipment and certain aspects of health and amenity.

The Environmental Planning and Assessment Regulation 2000, also requires the owners of all Class 2 to Class 9 buildings subject to a building approval or fire safety notice order or
order by the Council after 1 July 1988, to submit a fire safety statement to their local Council and the Fire Commissioner of the New South Wales Fire Brigades. The fire safety statement and the relevant fire safety schedule are to be prominently displayed in the building.

While there are older buildings which may not currently be subject to these requirements, at a future date many of these buildings will be subject to a development consent, building approval or a fire safety order which will incorporate these requirements.

Essential fire safety services encompass a number of fire safety measures within buildings or premises and include:
- automatic fire suppression systems
- fire hose reels
- fire hydrants
- smoke detection and alarm systems
- fire doors
- fire extinguishers
- solid-core doors
- smoke exhaust systems
- exit signs
- fire drenchers
- emergency lighting
- exit systems and paths of travel to exits.

13.1.2.9 Food Act 2003

The NSW Food Act 2003 regulates the handling of food for sale and the sale of food and provides for the application of the Australian and New Zealand Food Standards Code in New South Wales.

The objects of this Act include the following:
- to ensure food for sale is both safe and suitable for human consumption
- to prevent misleading conduct in connection with the sale of food
- to provide for the application in this State of the Food Standards Code.


13.1.2.10 Animal Research Act 1985

Since 1991, all New South Wales schools have been required to comply with the requirements of the Animal Research Act 1985 in respect of any use of animals in teaching and learning. The Act places the responsibility for the care and welfare of animals in schools upon the school principal and the teacher involved with use of animals.

Any involvement of animals in schools must be managed in accordance with the document Animal Welfare Guidelines for Teachers produced by the New South Wales Schools Animal Care and Ethics Committee (available from SACEC, Support Officer c/o Curriculum Support Directorate, Department of Education and Communities, Private Bag 3, Ryde NSW 2112, phone (02) 9886 7426).
13.1.2.11 Anti-Discrimination Act 1977

Under the Anti-Discrimination Act 1977 it is against the law to discriminate against or harass people on the basis of their:

- race
- sex (including pregnancy)
- disability
- age
- marital status
- homosexuality
- transgender status
- carer's responsibilities.