Children and Education

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Introduction

The law, systems and processes relating to education in Queensland are mainly governed by the *Education (General Provisions) Act 2006* (Qld) (Education Act), *Education (General Provisions) Regulation 2006* (Qld) and the Policy and Procedure Register published by the Queensland Department of Education and Training.

The Education Act gives the chief executive of department a range of powers and responsibilities. These powers will not usually be exercised directly by the chief executive but are delegated to officers within the department with appropriate experience and seniority.

Children of Compulsory School Age—Parental Responsibilities

Compulsory school age

Parents have a legal responsibility to ensure that their children receive an appropriate education. In general this means that, unless they have a reasonable excuse, parents of a child of compulsory school age must:

- enrol the child at a school
- ensure they attend school on every school day (s 176 Education Act).

A child is 'of compulsory school age' from six years and six months until they turn 16 or they complete year 10 (whichever comes first) (s 9 Education Act).

A reasonable excuse includes:

- the child lives with parent A and parent B has good reason to believe parent A is sending the child to school
- in all the circumstances, the parent is not reasonably able to control the child's behaviour to the extent necessary to ensure they go to school.

The maximum penalty is currently $706.30 and $1413.60 for each subsequent offence (including where a different child of the parent is involved).

A parent of a child who is of compulsory school age must not employ the child, or allow the child to be employed, during the time the child is required to attend a state school or non-state school, unless the parent has a reasonable excuse. The current maximum penalty is $706.30 (s 230 Education Act).

Prep

Prep is the first year of schooling in Queensland and is a full-time program. Children must be five years old by 30 June in the year they enrol. However, there is no legal obligation to enrol a child in prep or for them to attend where the student is below compulsory school age, and parents cannot be prosecuted if their child does not attend prep.

Early entry to prep may be considered in very specific circumstances and where it is in a child's best educational interests in consultation with the principal.

Delayed entry to prep (and subsequently year 1) is a decision for the child's parents. They may feel that their child is not ready to start school because they are not yet ready to cope with the demands of going to school or they have developmental issues. This is a parental decision and they do not have to discuss delayed entry with a school principal, subject to the child being enrolled once they are six years and six months old.

Kindergarten

Approved kindergarten programs help to prepare children for the prep year. Children must be at least four years old by 30 June in the year they attend the program. Kindergarten programs are not compulsory.

Long day-care kindergarten, family day care, outside-school-hours care/vacation care and limited-hours care or occasional care can refuse to take a child whose immunisations are not up to date.

Compulsory participation phase

The compulsory participant phase is after a young person has turned 16 or completed year 10 until the young person:

- gains a certificate of achievement, senior statement, certificate III or certificate IV
- has participated in eligible options for two years after turning 16 or finishing year 10
- turns 17 years.

Eligible options include:

- continuing at school or going on to TAFE or university
- taking up a vocational course, apprenticeship, traineeship or employment skills development program (s 232 Education Act).

Parents can be fined if their child is not enrolled or does not go to school, or does not attend an eligible option unless the parent has a reasonable excuse. Parents should explain any absences to the school or other relevant entity as soon as possible.

A reasonable excuse includes:

- the child lives with parent A and parent B has good reason to believe parent A is sending the child to school
- in all the circumstances, the parent is not reasonably able to control the child's behaviour to the extent necessary to ensure they go to school.

The maximum fine is currently $706.30 for the first offence and $1413.60 for each subsequent offence (including where a different child of the parent is involved).

Exemptions from attendance

For either children of compulsory school age or young people in the compulsory participation phase, parents can apply for an exemption using the relevant form when their child cannot attend, or it would be unreasonable in all the circumstances for their child to attend school or an eligible option for more

than 10 consecutive school days. This could include illness, family-related matters, and cultural or religious reasons.

Completion of an exemption form is not necessary for some situations, such as where a child has been suspended or excluded, or if they have an illness that requires them to be away from school for less than 10 consecutive days.

Non-state schools

A parent meets their legal responsibility if their child is enrolled in and attending a non-state school. The operation of non-state schools is not generally covered by the Education Act. The parents' relationship with the school is a contractual one, usually including the school's policies and procedures.

Non-state schools will have their own policies and procedures regarding the running of the school. These policies usually include issues such as homework, drugs, dress codes, religious instruction, as well as behaviour management/discipline issues. It is important that parents and students understand the school's expectations before enrolling.

Non-state schools are subject to other important laws, such as anti-discrimination legislation and common law principles of duty of care and due process and procedural fairness.

Home schooling

A parent can meet their legal responsibility by home schooling their child, but they must apply to be registered for home education. The Department of Education and Training has a Home Education Unit to assist parents to comply with legislative procedures.

Enrolment in School

In Queensland, children and young people are generally entitled to 26 semesters of education (including prep) and can generally enrol in any state school. Generally, an application for enrolment must be accepted if they are entitled to enrolment (s 156 Education Education Act).

According to the Education Act, there are some exceptions to entitlement to enrolment such as:

- where a school is near capacity in its student numbers; the school may have an enrolment management plan in place. Enrolment in these schools will be limited to children living within a specific catchment area around the school (ch 8 pt 3 Education Act).
- the applicant does not provide relevant information or documentation such as a birth certificate (s 155 Education Act)
- the child is not eligible for free state education because they are not an Australian resident or citizen, or the child of an Australian permanent resident or citizen (s 50 Education Act)
- the principal reasonably believes that the applicant presents an unacceptable risk to the school community (s 156(2) Education Act)
- the child has been excluded, has their enrolment cancelled or is subject to a suspension from another state school at the time.

The Department of Education and Training has a directory that lists all state and non-state schools in Queensland and provides links to school websites.

Before enrolling the student, the principal must give the parents a copy of the school's enrolment agreement which sets out the respective rights and obligations in relation to a child's education of:

- students at the school
- the parents of students
- the school staff.

Parents are asked to sign it, but a child's enrolment cannot be refused if a parent does not do this. The enrolment agreement is not a legally binding contractual document. It simply documents expectations.

Students

Students with a disability

The Department of Education and Training has a dedicated section for parents of children with a disability.

A school principal is responsible for ensuring that all students are provided with the appropriate educational adjustments to enable them to access the curriculum. However, each school is different, and it is important to discuss the child's needs before enrolling the child at a school.

Students meeting criteria for one of six following Education Adjustment Program Disability Categories may be eligible for targeted support:

- autism spectrum disorder
- hearing impairment
- intellectual impairment
- physical impairment
- speech language impairment
- vision impairment.

Special schools provide education only to students with disability, and there are specific procedures before a child can be enrolled at such a school. A student with intellectual impairment or with multiple impairments may be eligible to attend a special school.

Schools are subject to anti-discrimination legislation.

Mature-age students

There are a range of options for adults who want to study years 11 and 12 including TAFE and distance education. People who are 18 years or older can only enrol in a school prescribed as a 'mature-age school' (there are currently 10 such schools in Queensland), but this is subject to conditions and checks such as a criminal history check and previous schooling history.

Students without parental support

Some students find themselves in the situation where their parents, for some reason, may not be willing or able to provide relevant permissions, or lodge forms or applications for their child. Where students are old enough, they may be regarded as being independent, and the school may dispense with parental involvement.

Sometimes this is formally acknowledged in legislation for example, a principal may deal with an application for enrolment at the school made by the child if the principal reasonably believes it is in the child's best interests for the child to make the application.

On other occasions, it will be a question of negotiating with the school. The school counsellor or guidance officer, or another adult the student trusts, such as a youth worker in an organisation supporting the student generally, may be able to assist in advocating with and for the student. Any documentation that would support the student's argument that they are independent, for example evidence of Centrelink payments for Youth Allowance, could be provided to the school.

The student can seek legal information and advice by contacting a specialist youth legal service such as the Youth Advocacy Centre Inc., YFS Legal and South West Brisbane Community Legal Service.

School's Duty of Care

Principals must by law provide a safe, supportive and productive learning environment. Each school's Responsible Behaviour Plan for Students is expected to respond to issues such as bullying (including cyber bullying) and internet use (cyber safety). Failure on the part of a school to have a plan for responding to bullying or failure by the school to act in accordance with such plans could assist in supporting a claim against the school where a student suffers injury (emotional, mental or physical) as a consequence.

Teachers stand in the place of a parent while students are in their care. Teachers therefore have the responsibility of exercising a duty of care in relation to the children as well as having the authority to provide the child with direction and correction.

Children are under the supervision of their teachers not only during classroom activities, but also during recess, lunchtime, sporting events and excursions.

A teacher (and a school) may be liable for negligence where a pupil is injured in an accident while under their supervision (see *Commonwealth v Introvigne* (1982) 150 CLR 258*; Ramsay v Larsen* (1964) 111 CLR 16). The responsibility of a teacher to prevent accidents that injure pupils is similar to that of a careful parent. Teachers must assess the likelihood of danger arising in relation to activities involving a level of risk (e.g. at chemistry experiments, swimming events or on excursions) and take necessary precautions.

In deciding whether a teacher has been negligent, the courts will consider whether the teacher has taken reasonable care in all the circumstances to prevent injury to the child in accordance with the usual legal principles relating to negligence (see chapter on *Accidents and Injury*).

Child safety concerns

Mandatory reporting

A school staff member must immediately make a written report if they become aware or reasonably suspect the sexual abuse or likely sexual abuse of a student under 18 years (ss 365, 365A Education Act).

A teacher must make a report if they reasonably and honestly suspect a child has suffered, is suffering or is at risk of suffering significant harm caused by physical or sexual abuse, and may not have a parent able and willing to protect the child from harm (s 13E *Child Protection Act 1999* (Qld)).

Behaviour Management and Discipline in School

Non-state schools

Non-state schools will have their own policies and procedures regarding the running of the school and behaviour management/discipline issues.

Section 280 of the Queensland *Criminal Code Act 1899* (Qld) provides that 'it is lawful for a parent or a person in the place of a parent, or for a schoolteacher or master, to use, by way of correction, discipline, management or control, towards a child or pupil, under the person's care such force as is reasonable under the circumstances …'.

The use of unreasonable force by a teacher is unlawful and may amount to a criminal assault, as well as giving a child a civil law right to sue for compensation for pain, and any medical or other expenses incurred as a result. However, the law does allow for physical 'correction' or 'discipline', and parents should check the school's policies if they have concerns in relation to this.

State schools

In their 'in loco parentis' role, teachers may provide students with direction and correction. Corporal punishment was abolished at a policy level in Queensland state schools 20 years ago.

The Education Act requires the principal of a state school to '… control and regulate student discipline in the school …' (s 275) in line with departmental policies and procedures (s 276).

The Department of Education and Training's *Safe, Supportive and Disciplined School Environment* procedure notes that it is for each school to determine its behaviour management strategies and disciplinary consequences, which may include:

- suspension
- exclusion or cancellation of enrolment
- detention
- discipline improvement plans
- community service interventions (which must take place outside of school hours).

Principals cannot delegate decisions for suspensions, exclusions and cancellations of enrolment and discipline improvement plans.

Each state school is expected to develop its own responsible behaviour plan, but each school can deal with matters as they see appropriate for their school.

A plan can cover a wide range of matters, including how the school will manage and respond to drug issues, bullying and use of social media. The example plan notes that the Queensland Police Service may be notified in relation to a number of matters.

A discipline improvement plan can be used at any time (s 276(2) Education Act). For example, it can be used as a way to prevent inappropriate behaviour getting worse or as a last resort option instead of suspension or exclusion.

The plan should be in writing and everyone should have a copy so that they know what they are agreeing to. It should include:

- the reasons why the principal says the student's behaviour is unacceptable
- details about any program which is being put in place (e.g. an anger management course)
- how long any program will last
- what could happen if the student does not follow the plan.

Failure to undertake a detention or community service intervention, or to agree to a discipline improvement plan is not in itself a ground for suspension, exclusion or cancellation of enrolment, but the original behaviour could be.

Suspension, exclusion and cancellation of enrolment are said to be strategies of last resort and should only be used after other ways of addressing any issues have been tried (e.g. putting a discipline improvement plan in place). Any student in any grade can be suspended or excluded.

A principal is not allowed to ask a student to leave the school unless the student has been suspended, excluded or their enrolment cancelled.

Suspension

According to ch 12 pt 3 div 2 of the Education Act, a student can be suspended by a principal from a state school for:

- disobedience or misbehaviour
- conduct that the school thinks affects other students or is harmful to the proper running of the school
- being a risk to other students or staff
- being charged by police with any offence (which does not have to be related to the school or allegedly have been committed during school hours), if the principal thinks it would not be in the best interests of other students or staff for the student to be at school.

Suspensions can be for:

- 1 to 10 days
- 10 to 20 days

- a certain time until the court has decided the case where the suspension is because the student has been charged with an offence. The principal can lift the suspension if the student can show that being at school would not be harmful to the staff or other students.

The suspension starts when the principal advises the student. The principal has to give the student a form that states that they have been suspended and, if the decision allows for the student to return to school, provides them with the date at which they can return to school.

The principal must arrange for the student to continue with their education during the suspension by:

- attending an alternative learning program (a list of programs can be found on the Department of Education and Training website)
- doing work at school in a separate room supervised by a teacher's aid
- going to another school.

If a student has been suspended, they cannot enrol at another school during the suspension unless the chief executive agrees (see Suspension under Refusal of Enrolment, Exclusion or Suspension from School).

Exclusion

A student can be excluded for up to one year or permanently (ch 12 pt 3 div 3 Education Act) by the school principal, the principal's supervisor or the chief executive from the school they are attending or from all state schools for:

- persistent disobedience
- misbehaviour
- conduct that is, or is likely to, adversely affect other students or the good order and management of the school. The conduct does not have to happen during school hours or on school grounds
- the student's attendance being an unacceptable risk to the safety or wellbeing of other students or staff
- situation where suspension is not enough to address these issues.

A student can also be excluded if:

- they are convicted of an offence (which does not have to be related to the school or have been committed during school hours)
- it would not be in the best interests of other students and staff for the student to be enrolled at the school.

The student must be given a written notice (proposed exclusion notice) advising that:

- it is proposed to exclude them
- they are suspended until the decision about exclusion is made.

The principal, principal's supervisor or chief executive has to:

- take reasonable steps to arrange for the student access to an educational program during the suspension
- make a decision about exclusion within 20 days of the proposed exclusion notice if the decision relates to the school the student is attending, or within 30 days if the chief executive is considering exclusion from certain or all state schools.

As a matter of natural justice, before deciding to exclude a student, the school should give the student a reasonable opportunity to make a submission with reasons as to why they should not be excluded. The principal should consider these reasons properly before making a final decision.

If the decision is not to exclude, the principal must:

- tell the student this as soon as practicable
- advise the student that the suspension is over and they can return to school
- then give the student a written notice about the decision.

If the decision is to exclude, they must:

- exclude the student for up to one year or permanently
- give the student a written notice about the exclusion as soon as practicable, which includes telling the student that they can seek a review of the decision.

Exclusion means that the student is no longer enrolled at the school they were attending. If the decision is that the student is excluded from all state schools, the chief executive has to take reasonable steps to arrange for the student to access an educational program during the exclusion (in reality this means distance education or an alternative learning program). For a review of the decision see Exclusion under Refusal of Enrolment, Exclusion and Suspension from School.

Cancellation of enrolment

Cancellation of enrolment (ch 12 pt 3 div 8 Education Act) relates only to students who are older than compulsory school age. A student's enrolment can only be cancelled if their behaviour amounts to a refusal to participate in the school's education program (participation means more than just turning up at school).

If the principal decides to cancel an enrolment, the school must give the student a written notice advising:

- their enrolment at the school is cancelled
- they cannot apply to re-enrol for a specified period (less than 12 months from the date of the notice).

For a review of the decision see Cancellation of Enrolment under Refusal of Enrolment, Exclusion or Suspension from School.

Other actions to address student behaviour

The Department of Education and Training procedure also allows the use of:

- ‘time out’ as a proactive strategy as well as a behaviour management strategy, giving a student time away from their regular class program/routine:
    - to a separate area within classroom
    - to another supervised room or setting
- physical restraint (manual) of a student’s movement as an immediate or emergency response, or as part of a student’s individual plan:
    - where a student is behaving in a manner that is potentially injurious to themselves or others
    - to prevent serious property damage.

Refusal of Enrolment, Exclusion or Suspension from School

It should be remembered that a child has a right to an education under the United Nations *Convention on the Rights of the Child* and generally a specific legal right to 26 semesters of free state education in Queensland. Successfully completing school is key to being able to find and maintain employment as an adult. Disconnection from school is a significant risk factor for young people becoming involved with the criminal law. Therefore decisions that take away a person’s educational opportunities must not be taken lightly.

If children or parents need help to understand the processes and/or with writing responses or submissions, they should contact a community legal centre whose services are usually free. The Youth Advocacy Centre Inc., YFS Legal and South West Brisbane Community Legal Service have lawyers who specialise in assisting children 10 years and over for free.

Refusal of enrolment

Child under 18 years of age

A principal must enrol a prospective student if they are entitled under the Education Act to be enrolled at the school (s 156(1)).

However, if the principal reasonably believes that the prospective student ‘poses an unacceptable risk to the safety or wellbeing of members of the school community’, they must refer the application to the chief executive (s 156(2) Education Act) and if:

- the chief executive does not believe that enrolling the prospective student would pose an unacceptable risk, the application is referred back to the principal for approval (ss 156, 158(2) Education Act)
- the chief executive agrees that there is an unacceptable risk, it must give the applicant parent or child a ‘show cause notice’ that states:
    - consideration is being given to enrolment being refused
    - the grounds for such a refusal

- an outline of the facts and circumstances on which the grounds are based on (s 159 Education Act).

The applicant must then be given at least 14 days after receiving the notice to respond in writing.

If the applicant does not make any representations, the student's enrolment will be refused automatically (s 162(2) Education Act).

If, after considering any representations, the chief executive:

- does not believe that enrolling the prospective student would pose an unacceptable risk, they must tell the applicant as soon as practicable, and the application is referred back to the principal for approval (s 161 Education Act)
- believes that enrolling the prospective student would pose an unacceptable risk, they must refuse the enrolment application and advise the applicant and the principle by an 'information notice'. The refusal decision is binding on the principal.

If enrolment is refused, another application cannot be made until one year after receipt of the information notice.

There is no right of appeal or review from this decision.

Special school

Where the proposal to refuse enrolment, due to an unacceptable risk to safety or wellbeing, relates to a person with a disability within the Department of Education and Training's criteria (ch 8 pt 1 div 3 Education Act), a different process applies. In this case, the chief executive decides:

- whether the person is a person with a disability within the criteria
- if the school is able to cater for their educational needs.

If the chief executive:

- is satisfied on both counts, the matter is referred back to the principal for approval
- is not satisfied on one or both counts, the enrolment must be refused.

The decision is binding on the principal. There is no provision in relation to making further applications.

Mature-age student

A mature-age student has to agree to a criminal history check when applying for enrolment to a mature-age state school. A criminal history for this purpose includes any conviction or any charge in Queensland or elsewhere (s 175A Education Act).

In assessing whether an applicant is an unacceptable risk to the safety or wellbeing, the principal has to consider for each matter on the applicant's criminal history:

- whether the offence is a serious offence
- when the offence was committed or is alleged to have been committed

- the nature of the offence and its relevance to the prospective student being a mature-age student of the school
- if there was a conviction—whether a penalty was imposed, and the nature of the penalty (s 156(2A) Education Act).

Aside from this, the process is the same as for any other student considered an unacceptable risk.

Suspension

Chapter 12 pt 3 div 2 of the Education Act provides that a student cannot have a decision by a principal to suspend them for one to ten days reviewed. However, they can make a complaint to the Department of Education and Training about how the principal treated them or about how the decision was made if they think it was unfair.

If the student is suspended for 10 to 20 days, they can ask the chief executive to review the decision. This has to be in writing and must give as much information as possible about why the suspension is wrong or unfair.

The chief executive can decide to:

- confirm the suspension
- vary the length of the suspension
- cancel the suspension
- substitute another punishment.

The chief executive must tell the student about the decision as soon as practicable. They must also give the student the decision in writing with the reasons for the decision.

Exclusion

Exclusion up to one year

An excluded student can write to the chief executive asking that the exclusion decision be reviewed (ch 12 pt 3 div 3, 4, 6, 7 Education Act). This has to be done within 30 days from when the student was given the written notice of exclusion and must give as much information as possible about why the exclusion is wrong or unfair.

The chief executive then has 40 days to consider the submission and decide whether to:

- confirm the exclusion
- exclude the student but make a different decision about for how long or where the student is excluded from
- cancel/set aside/substitute the decision.

The chief executive must:

- tell the student and the student's principal the decision as soon as practicable after making it

- within seven days of telling them, provide them with a written notice of the decision with the reasons.

Where the chief executive was the decision maker and this was done through delegation to a member of the chief executive's staff, the person reviewing the decision must be the chief executive or a delegate other than the one who made the original decision.

If the chief executive excludes a student from all state schools (whether permanently or not), the chief executive must also advise that the student has a right to have the decision reviewed by the Queensland Civil and Administrative Tribunal.

Permanent exclusion

A person who is permanently excluded from a school, certain schools or all schools may write to the chief executive each year up until they turn 24 years of age, asking for the decision to be revoked. Only one application can be made per year.

The chief executive has 40 days to consider a submission and tell the person the decision. They must revoke the exclusion if they are reasonably satisfied that:

- the disobedience, misbehaviour or other conduct is unlikely to recur if the student were allowed to attend the school or schools
- the student's attendance at the school or schools no longer poses an unacceptable risk to the safety or wellbeing of other students or of staff
- it would no longer be in the best interests of other students or of staff for the student not to be enrolled at the school or schools.

Cancellation of enrolment

If a student's enrolment has been cancelled, the student can write to the chief executive and ask for a review of the principal's decision (ch 12 pt 3 div 8 Education Act). They must give as much information as possible about why the cancellation is wrong or unfair. There is no time limit for seeking a review.

The chief executive can:

- agree with the original decision to cancel the enrolment
- vary the original decision
- make a different decision in place of the original decision.

Judicial review

In all matters that are not reviewable by the Queensland Civil and Administrative Tribunal, it is open to the student to complain to the Queensland Ombudsman or make an application to the Supreme Court for judicial review. However, both of these relate to complaints about procedural issues rather than the merit of the decision. Judicial review is expensive and it would be best to talk to a lawyer about this option.

Miscellaneous School Rules

Dress Code

A state school principal may develop a dress code for the school's students when attending or representing the school (s 360 Education Act). The Department of Education and Training may also develop guidelines for a state school's dress code (s 361 Education Act).

Noncompliance with the dress code cannot be a ground to suspend, exclude or cancel a student's enrolment.

Students' property

The Department of Education and Training's policy *Temporary Removal of Student Property by School Staff* notes that '… school staff can search school property such as lockers or desks being used by a student without the student's consent …'.

Generally no-one can search or deal with a student's own property, such as their school bag, unless the student or their parents have consented to this. For example, a staff member who takes a mobile phone from a student may not unlock the phone or read, copy or delete messages stored on it.

There may be emergency circumstances where it is necessary to search a student's property without consent (e.g. to access an EpiPen for an anaphylactic emergency, or other situations where the life or welfare of students is at immediate risk).

The policy provides that a staff member of a state school (which means anyone employed at the school) can take an item away from a student temporarily if they are reasonably satisfied this is necessary to:

- preserve the caring, safe, supportive and productive learning environment of the school
- maintain and foster mutual respect among staff and students at the school
- encourage all students attending the school to take responsibility for their own behaviour and the consequences of their actions
- provide for the effective administration of matters about the students of the school.

The policy advises that the principal should retain the property for handing to police if:

- it is illegal to possess the item
- it is likely to threaten the safety or wellbeing of students or staff
- there is a reasonable suspicion is has been used to commit a crime.

Otherwise, it requires that property must be available for collection by the student or their parent within a reasonable time.

If there is reason to believe the property does not belong to the student, the school must make reasonable efforts to identify the owner.

Staff are advised to take reasonable care to ensure that the property is returned in the same condition as when it was taken.

Homework

A teacher at a state school may require a student of the school to complete homework. The school's principal decides what is a reasonable amount of homework for a student at each year level. In deciding what is reasonable, the principal must have regard to any homework policy they have developed for the school under s 427(2)(f) of the Education Act.

The Department of Education and Training's *Homework—in State Schools* notes that homework should be relevant to class work, year level, learning needs and skills development, and effective in supporting learning. The amount of homework should allow sufficient time for family, recreation, and community and cultural activities and not disadvantage students with a lack of access to resources such as computers and the internet outside school.

Schools may include a reference to obligations concerning homework in their responsible behaviour plan.

Religious instruction

Religious leaders, who wish to provide religious instruction to students of their faith group, can apply to a state school principal in writing to establish a single faith group or collaborative arrangement with more than one faith group working together (s 76 Education Act).

Queensland state schools make up to one hour per week available for the provision of religious instruction to students (except prep students) who are members of a faith group that has approval to deliver religious instruction at the school.

Where the parents have nominated a religion on their child's application for enrolment form, and the school has that religion as part of its religious instruction program, the child will be sent to that class. If the parent puts 'no religion', 'no religion nominated' or a response that is not represented within the school's religious instruction program, the child will receive other instruction in a separate location during the period arranged for religious instruction.

Parents may withdraw their child from all religious instruction by notifying the principal in writing at any time.

Entry to School Premises and Grounds

Schools, including state schools, are not public spaces and entry to them is therefore by consent or invitation—implied or explicit. It is an offence to be on state school premises without a lawful authority or a reasonable excuse for being there (a current maximum fine of $2356 applies, s 334 Education Act).

This means that school grounds (such as the playing fields) are not available for general use out of school hours without permission, even just walking through school grounds as a shortcut.

Schools have the power to limit or prohibit entry to school premises and grounds to manage risk of harm or injury to people or property, or the good management of the school.

A school principal of a state or non-state school has the power to give a person other than a student or employee:

- a written direction about the person's conduct or movement at the school's premises for up to 30 days. The person can seek a review of the decision by the chief executive for state schools or the non-state school's governing body or nominee. Maximum penalty for non-compliance is $2356 (ss 337, 346 Education Act)
- an oral direction for the person to leave the state school grounds immediately and not re-enter the grounds for 24 hours. There is no ability for a review and the maximum penalty for non-compliance is $2356 (ss 339, 348 Education Act)
- a written direction to the person prohibiting them from entering the school grounds for up to 60 days (this can also be done by the chief executive or the non-state school's governing body). There is no ability for a review and the maximum penalty for non-compliance is $3534 (ss 340, 349 Education Act).

The principal can ask for a person's name and address in order to be able to give the direction and some evidence that the name and address is correct, and it is an offence not to comply with the request (ss 336, 344 Education Act). Maximum penalty for non-compliance is $1178.

The chief executive or a non-state school's governing body or nominee can give a written direction to a person other than a student or employee prohibiting them from entering their premises for more than 60 days but no more than a year. The person can seek a review by the Queensland Civil and Administrative Tribunal (QCAT) (ss 341, 350 Education Act). Maximum penalty for non-compliance is $4712.

The chief executive can apply to QCAT to prohibit a person other than a student from entering the premises of all state schools or all state and non-state schools for up to one year (ss 352, 353 Education Act). The tribunal may make the order if satisfied, on the balance of probabilities, that the person poses an unacceptable risk to the safety or wellbeing of members of school communities in general. A breach of an order of QCAT under ss 352 or 353 is an offence carrying a maximum penalty of $4712 or one year imprisonment.

With respect to a non-state school, it is arguable that unlawfully entering or remaining at the school amounts to trespass and could be a breach of s 11(2) of the *Summary Offences Act 2005* (Qld).

Other offences

It is an offence to:

- wilfully disturb the good order or management of a state school
- insult or abuse a staff member of a state school in the presence or hearing of a student while at the school or anywhere else students are assembled for an educational purpose (s 333 Education Act).

The maximum penalty is $2356. A student of the school cannot be charged under this section.

Legal Notices

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