



# Compulsory school attendance

Information for nsw government school principals



**Schools support parents by monitoring student attendance and helping to address attendance issues when they emerge.**

The aim of this brochure is to provide an overview of amendments to the *Education Act 1990* which came into effect in 2010 and outline the intersection with Keep Them Safe.

In New South Wales, 'compulsory school-age' means that all children from six years of age are legally required to be enrolled at and attending school or to be registered for home schooling. After they complete Year 10, and until they turn 17 years of age, students then have the following options. They may also be in:

- full-time further education and training (e.g. TAFE, traineeship, apprenticeship);
- full-time, paid employment of an average of 25 hours per week; or
- a combination of both of the above.

Parents or carers are responsible for making sure that their children comply with these legal requirements. Schools support parents by monitoring student attendance and helping to address attendance issues when they emerge. Where schools have unsuccessfully tried a range of strategies to help resolve a student's non-attendance, schools can request assistance from regional attendance officers of the Department of Education and Communities for additional support.

## **Keep Them Safe: A shared approach to child wellbeing**

The *Protecting and Supporting Children and Young People Policy (2010)* sets out the roles and responsibilities of all staff in relation to child protection including training, reporting risk of harm, and supporting children and young people. If the principal or workplace manager suspects a child or young person is at risk of significant harm they must report to the Community Services Child Protection Helpline (telephone 13 3627).

Where a principal or workplace manager suspects a child or young person is at risk of harm which does not meet the threshold of significant harm but is not trivial they must contact the Child Wellbeing Unit (telephone 02 9269 9400 at local call charges).

Where there are concerns that a child or young person is habitually absent, in addition to following the department's policies and procedures for school attendance, all staff should consider whether the habitual absence places the child or young person at suspected risk of harm and where there are concerns that it does, convey these concerns to their principal or workplace manager.

The Mandatory Reporter Guide has been developed to assist staff in making decisions about the nature and seriousness of child protection concerns and what action should be taken in response to these concerns. This guide can be accessed at <http://www.keepthemsafe.nsw.gov.au>.

### What are some of the provisions in the Education Act 1990 ("the Act")?

- Section 22A Obtaining information about children of *compulsory school-age*

(1) Any *relevant institution* or other person may provide information to the Department of Education and Communities solely for the purpose of assisting the *Director-General* to ascertain:

(a) the age, identity or whereabouts of a child who is not receiving *compulsory schooling* or who is not participating in education, training or paid work as an alternative to receiving *compulsory schooling*, and

(b) the reasons why the child is not receiving that *schooling* or not so participating.

### Where school based strategies have failed to restore regular school attendance

Principals help to ensure the safety, welfare and wellbeing of students. Where schools have tried a range of strategies to address a student's habitual absence other options are available such as requesting support from the Home School Liaison Program. Prior to 2010, the only legal option available to enforce school attendance was prosecution in the Local Court, resulting in the imposition of a fine and/or a community service order. There is now greater flexibility in proactively dealing with cases of habitual absence. It is hoped that the majority of non-attendance matters will be resolved through a pre-court process such as those set out below. Please note, in reading the information below, one process does not necessarily follow another. Some actions may occur concurrently.

#### ■ *Compulsory schooling undertakings*

The Principal may make schooling arrangements with one or more parents or carers of a child that includes a written 'undertaking' by the parent/s or carer/s with respect to compulsory schooling for the child (a "compulsory schooling undertaking"). The arrangements may be made before, during or after a conference. A compulsory schooling undertaking is admissible in evidence. Undertakings deal with specific issues contributing to the habitual absence. Examples may include that:

- transport will be provided to get the child to school
- an alarm clock will be used and the child will be out of bed at a set time
- the parent will attend drug and alcohol counselling sessions.

Signed undertakings should be kept by the school and a copy provided to the parent or carer.

Where schools have requested support and a case has been accepted onto the caseload of a home school liaison officer and/or an Aboriginal student liaison officer, the following actions are coordinated at a regional level via the Home School Liaison Program.

#### ■ *Compulsory school attendance conference*

The Children's Court or the Director-General of the Department of Education and Communities can direct that a conference takes place, convened by a trained conference convenor, where a child of compulsory school age is not attending school. The aim of a conference is to reach an agreement under which the child will regularly attend school. Conferences involve the school, parents, sometimes students and other people who are likely to be able to help resolve attendance issues, including representatives from other agencies and organisations. The conferencing process also presents an opportunity for other professionals or individuals to identify and provide support for a student and their family to help restore a child's school attendance.

*It is important that schools continue to support students and their families during these processes. The school principal or deputy principal should attend the conferences.*

#### ■ *Action in the Children's Court*

If other options have not been successful or are not appropriate, it may be necessary to seek intervention of the court. In cases involving older children (aged twelve and above) if it is clearly established that the poor school attendance is not the fault of the parent, an application involving the child, alone, may be commenced. The proceedings in the Children's Court are less formal than prosecutions in the Local Court. This has allowed older children to attend the Court with their parents.

Applications to the Children's Court for a Compulsory Schooling Order will be made by a member of the regional attendance team who, for the purposes of the applying to the Children's Court will be referred to as the "attendance officer". All court appearances will be undertaken by a legal officer, or a local solicitor engaged by the legal officer.

The court may order the parent to attend a conference and/or issue an interim 'Compulsory Schooling Order'. An interim order requires the parent to ensure that the child is enrolled at and attending school. Compulsory Schooling Orders can either be quite general in nature, for

example, an order that a parent engage with relevant Departmental staff, or that they attend a conference. Alternately, orders can also be reasonably involved and comprise numerous components, such as an order to attend drug and alcohol counselling, and/or have a child medically assessed by a particular medical practitioner.

Note: It is anticipated that a significant number of matters will have been subject to a Director-General's conference prior to reaching the Court. However this will not always be the case. In cases where parents have refused to attend a conference, it is anticipated that the Application to the Children's Court will, in addition to seeking a Compulsory Schooling Order, also seek an order that the parent attend a conference.

#### ■ Prosecution in the Local Court

Where parents continue to fail to see that their children are enrolled at and attending school, the matter may be taken to a Local Court. Such measures are in place to ensure that all children of compulsory school age receive the education they deserve. This action can only be taken by, or with the written consent of, the Director-General of the Department of Education and Communities. Legal Services Directorate acts on behalf of government schools.

An action for breach of a Compulsory Schooling Order issued in the Children's Court must be undertaken in the Local Court. Penalties for these offences carry a maximum fine of \$11,000.

**Further information regarding school attendance can be obtained from the following websites**

**Policy, information and brochures:**

<http://www.schools.nsw.edu.au/gotoschool/a-z/attendance.php>

**New School Leaving Age:**

<http://www.schools.nsw.edu.au/leavingschool/index.php>

**Keep Them Safe:**

<http://www.keepthemsafe.nsw.gov.au/home>