

# Education (General Provisions) Amendment Bill 2025

## Explanatory Notes

### Short title

The short title of the Bill is the Education (General Provisions) Amendment Bill 2025.

### Policy objectives and the reasons for them

The *Education (General Provisions) Act 2006* (EGPA) underpins the education system in Queensland, providing a legislative framework for the administration of state education, while also providing for other regulatory matters relating to both state and non-state schooling sectors and home education.

The EGPA provides for the establishment of state educational institutions which provide primary, secondary or special education; costs for state education; allocation of state education for each student in Queensland state schools; school councils and Parents and Citizens' Associations (P&C Associations); enrolment at state schools; compulsory schooling and compulsory participation obligations; the good order and management of state educational institutions and non-state schools, including student discipline in state schools and mandatory reporting of sexual abuse in state and non-state schools; transfer notes to allow continuity in education for students transferring between Queensland state or non-state schools; and regulation of home education.

The Department of Education (the department) has undertaken a review of the EGPA and identified reforms that will contribute to Government objectives of reducing red tape, supporting teachers, and promoting student and school community safety.

The Education (General Provisions) Amendment Bill 2025 (the Bill) will:

- reduce the regulatory burden and red tape on schools, parents and students by streamlining administrative processes and clarifying regulatory requirements for schools, home education parents and P&Cs;
- support school and student safety by implementing a recommendation of the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) in relation to information sharing between Queensland schools when students transfer; and
- support the effectiveness of Queensland statutes by making minor and technical amendments.

### Achievement of policy objectives

The objectives are achieved by amendments to the EGPA and other legislation in relation to particular matters.

**Reducing the regulatory burden****Approved online services**

The Bill includes amendments that will reduce the administrative burden on state schools, parents and students by streamlining student access to approved online services for digital learning and student administration in state schools.

State schools are supported by a variety of third-party (non-departmental) technology solutions. For example, teachers may use online services with students to support curriculum delivery, complete learning activities and assessment, facilitate class collaboration and create and publish class work. Online services are also used to manage school operations and communicate with parents. At any one time, it is estimated individual state schools may be using hundreds of online services.

To support student access to some online services, certain information is provided. This includes, for example, the student's name, date of birth, achievement data, email addresses, and year level. This enables account registration and access to the service for a student.

The EGPA (section 426) provides that consent must be obtained for each individual service that requires personal information about a student.

State schools currently undertake a consent process for services, including when a new service is offered and either students or parents have to review and agree to information sought for the online service. Due to the increase in use of these services, the consent process has become burdensome for schools, students and parents, and there is an increased risk of information security breaches due to variability of online services' privacy and security protections.

Amendments to the EGPA in the Bill enable personal information about a student that is relevant to the set-up and use of an online service to be recorded, used and disclosed by a public service employee of the department to an online service that has been approved by the chief executive. Personal information will not include sensitive information, as defined in the *Information Privacy Act 2009* (IP Act).

Proposed reforms will establish a robust framework whereby the chief executive may approve an online service that requires the disclosure, recording or use of personal information about a state school student if the chief executive is reasonably satisfied:

- the online service is required for either or both of the following purposes—
  - for providing services for the education or educational support of students of state schools;
  - for the effective management of state schools.
- a contract or other arrangement entered into with the entity that provides the online service is a service arrangement (IP Act, section 34) and the entity is a bound contracted service provider (IP Act, schedule 5) in relation to the contract or arrangement; and
- an appropriately qualified public service employee employed in the department has assessed the online service according to a framework for assessing the matters mentioned in the following two dot points; and
- the online service is suitable to protect the privacy and online security of relevant information about the student that may be disclosed to, or recorded or used by, the entity providing the service; and
- the entity that provides the online service does not require sensitive information about the student.

To ensure transparency to parents and students, the chief executive will be required to ensure a list of all approved online services is made available for public inspection, without charge, including on the department's website.

The responsibilities and processes for obtaining and managing consent are currently provided for in the department's *Obtaining and managing student and individual consent procedure* and is administratively managed by schools. Parents are informed about how they can opt out when they are notified about the online services the schools intend to use. This process will continue to be detailed in departmental guidelines and communicated to parents, as it is now.

Parents and students may advise the school that they wish to opt out of using an online service. Parents and students can opt-out at any time by advising the school in writing, and the school must provide written receipt of the advice from parents and students. Schools must record opt out advice in OneSchool and ensure this is applied for the student. Once opt out advice is received by a school, a school cannot use the student's information for an online service.

For online services that require sensitive information about a student or that are not approved online services, parent or student consent will continue to be required.

#### Home education age eligibility

Currently, a student registered for home education can only be registered up to 31 December in the year in which the student turns 17 years of age.

The Bill contains amendments to the EGPA to support the regulation of home education by extending the age eligibility of a student in home education by one year, to 31 December in the year the student turns 18. This supports students and parents by ensuring a young person can continue to be registered in their final year of senior schooling.

This change removes a potential barrier to home education registration for students who wish to continue to be registered up to the year in which they turn 18 and aligns the age eligibility for home education registration, with students attending a state or non-state school. This is significant for all home education young people, and particularly for those with complex learning needs.

In doing so, the reform eliminates a regulatory impediment to education access and supports as parents and students will maintain eligibility for student-related financial supports, student discounts and educational resources.

#### Enabling principals to delegate the notification of suspension decisions

The Bill reduces the regulatory burden on state school principals by setting out that a principal can delegate the telling of a suspension decision to another senior member of school staff.

Principals operate in increasingly complex environments. There are significant demands on their time, and it can be difficult to manage the provision of advice within the school day. Currently, the EGPA does not enable a state school principal to delegate the telling of suspension decisions.

The Bill contains an amendment to the EGPA to reduce the regulatory burden on principals by enabling principals of state schools to delegate the notification of a suspension decision. Importantly, principals will still be required to make the suspension decision, ensuring that decision making for such matters remains at a high level.

The proposed amendment supports the administrative responsibilities of a principal and the provision of timely advice to students about suspension decisions. Positions that may be suitable for delegated authority for this purpose include Head of School, Deputy Principal or Head of Campus.

#### Special school enrolment

The Bill amends the EGPA to reduce the regulatory burden on principals of state special schools, and parents and students, by streamlining requirements associated with enrolment transfers between special schools.

Section 13 of the EGPA allows the Minister to establish schools at which the state provides primary, secondary or special education. State special schools support children and young people with intellectual disability, which alone or in combination with other disabilities, severely affects the student's ability to attend and learn at school.

Currently, under the EGPA, special school principals must refer applications for enrolment to the chief executive or their delegate for approval when prospective students are enrolling in a Queensland state special school even when they are transferring from one Queensland state special school to another. These transferring students will already have been assessed as meeting the criteria set out in the Eligibility Policy.

The need to reassess by the chief executive or their delegate whether a student transferring from one Queensland state special school to another meets the criteria set out in the Eligibility Policy.

Accordingly, amendments in the Bill streamline the enrolment process for a student transferring from one Queensland state special school to another. The amendments provide that if the enrolment application is for a student who was immediately before making the enrolment application, enrolled in another Queensland special school, the principal must enrol the prospective student if satisfied that:

- the prospective student is a 'person with a disability' based on criteria set out in the Eligibility Policy; and
- the special school to which the student is to transfer is able to cater for the educational needs of the prospective student.

#### Parents and Citizens' Associations

The Bill sets out a range of amendments to support the operations of Parents and Citizens' Associations (P&C).

P&C Associations play an essential role in a school community and are an important way in which parents can be involved in their children's education and support the school and its community. P&C Associations work in productive partnership with their school principal and the community to promote the interests of the school, and facilitate its development and further improvement, to achieve the best possible outcomes for students.

P&C Associations provide feedback and advice on school policies and activities, assist in providing resources to enhance student outcomes and are involved in a variety of school activities including fundraising, school functions, tuckshops and outside school hours care services.

The Bill amends the EGPA to help P&C Associations continue to work efficiently and effectively and provides increased clarity about the role and purpose of P&C Associations.

*Forming separate P&C Associations for schools with multiple campuses*

Section 118 of the EGPA provides for only one P&C Association to be formed for each school. However, some schools have multiple campuses which are geographically dispersed, with entirely different local communities and interests. For these schools, a single P&C Association representing all campuses may not be appropriate or effective.

While very few schools operate across multiple campuses with significant distance between them, where this does occur, the issues of distance, different local issues and interests, and possible concern about fair allocation of P&C Association funds between campuses could be major disincentives to parents becoming members of a single combined P&C Association.

For example, Tagai State College (SC) has 17 campuses located throughout the Torres Strait Islands in remote Far North Queensland, stretching some 48,000 square kilometres. Each Tagai SC campus has its own unique community and significant travel would be required for P&C Association members to physically meet.

The Bill amends the EGPA to enable a P&C Association to be formed for separate campuses of a school where the community of each campus is distinct and geographically dispersed. The school will be prescribed in a Regulation before multiple P&C Associations can be formed for it.

The proposed amendments will allow schools with geographically dispersed campuses to consider having multiple P&C Associations to meet unique local representation, and support the creation of greater engagement by parents/carers, knowing their involvement directly supports their child's campus and community.

Decisions about multiple P&C Associations for a relevant school will be made by the principal in consultation with eligible persons, in accordance with the existing processes set out in the *Education (General Provisions) Regulation 2017*, guiding the formation of P&C Associations.

The amendments are not intended for frequent use by a school. For example, it is not intended to allow a school to form multiple P&C Associations across junior and secondary grades of a school where there is limited or no unique circumstances. This is more appropriately managed by a P&C Association sub-committee.

It is also proposed that the amendments include a declaratory provision to validate any P&C Association that meets the set criteria which may already be established prior to the making of the amendments (for example, Tagai SC).

*Enabling donations between P&Cs*

The EGPA currently does not enable a P&C Association to donate funds to another P&C Association and/or school for philanthropic reasons. The funds raised by a P&C Association may only be used to support the school community for which the P&C Association is formed to represent.

Following a natural disaster (for example, flooding and/or storms, and bush fires), neighbouring communities' schools, or sister schools (across the state and interstate), have sought to rapidly respond by providing stationery, books and equipment such as photocopiers to ensure the affected neighbouring or sister school can resume classes as quickly as practicable.

The Bill amends the EGPA to enable a P&C Association to donate funds or goods to another school or P&C Association that may be affected by an adverse event (for example, natural disaster); and the decision to be made by the P&C Association.

The amendments will enable P&C Associations to support the wishes of their school community to offer support, funding or other resources to schools impacted by a natural disaster, and also ensures donations can immediately be used by a recipient school to support learning and engagement.

*Precluding person convicted of an indictable offence from being a P&C Association Executive Committee or subcommittee member*

Section 93 of the EGPA establishes that a person cannot become, or continue as, a member of a school council if the person has been convicted of an indictable offence, unless the Minister approves the person's membership. However, there is no similar provision precluding a person who has been convicted of an indictable offence from becoming, or continuing to be, a member or executive officer of a P&C Association.

The Bill amends the EGPA to preclude persons convicted of an indictable offence from being a P&C Association Executive Committee or subcommittee member, in recognition of the additional responsibilities of persons appointed to these roles beyond expectations of an ordinary member, and the potential for those members to become involved in the financial operations of the association.

Given it is not intended that P&C Associations would be required to conduct criminal history checks, it is proposed consideration be given to providing a similar function for P&C Associations to request a person who applies to be a member of the P&C Association Executive committee or subcommittee, to disclose particular information (for example, criminal history).

The amendments will provide P&C Associations with additional safeguards, for example, through prevention of a person who has previously been convicted for fraud to have access to P&C finances. It also aligns with school council provisions under the EGPA. A conviction for an indictable offence will continue to not prohibit general membership of a P&C Association, as all parents and carers may have opportunities to participate in the school community.

#### Collection of information from non-state schools

The Bill reduces the regulatory burden on the principals and governing bodies of non-state schools by clarifying the provision of information requested by the chief executive of the Department of Education.

Section 180 of the EGPA provides the chief executive may ask the principal of a non-state school for information regarding attendance and enrolment of a student of compulsory school age, but does not expressly require or authorise the principal to provide the requested information (although a principal is likely implicitly authorised). Section 181 of the EGPA provides the principal is not civilly liable for an act done, or omission made, honestly and without negligence for complying with the request. Liability attaches instead to the non-state school's governing body.

A similar provision for information sharing with the chief executive, about a non-state school principal's decision to grant an exemption to a student in their compulsory participation phase from the requirement to participate in an eligible education or training option, is made in section 251AB of the EGPA, with the protection from liability in section 251AC of the EGPA.

The Australian Privacy Principles (APP) 6.1 in schedule 1 of the *Privacy Act 1988* (Cth) prohibits an “APP entity” from disclosing personal information about an individual collected for a particular purpose for another purpose, unless the individual has consented, or the disclosure is permitted under subclauses 6.2 or 6.3. Subclause 6.2(b) permits disclosure of the information if it is required or authorised by or under an Australian law (which includes an Act of a State). To remove any doubt that this exception under subclause 6.2 applies for requests made under sections 180 and 251AB of the EGPA, non-state school stakeholders sought amendment of the EGPA to expressly require the requested information be provided to the chief executive. This would also benefit the department as it would remove any discretion for the information not to be provided.

Amendments in the Bill address requests from the non-state schooling sector for clarification, and include additional changes to sections 180 and 251AB of the EGPA to make it clear that the information being requested under those sections may be in the control of the principal or the school’s governing body.

### eKindy

The Bill reduces the regulatory burden by clarifying the application of distance and medical eligibility criteria for eKindy, improving accessibility to eKindy.

Currently, requirements regarding distance to a centre-based service and medical considerations are prohibiting some persons from registering a child in eKindy. Under section 419F of the EGPA, the 16km distance criteria is measured from the child’s home to the nearest centre-based service catering for kindergarten aged children. A centre-based service is an “education and care service other than a family day care service”, as defined in the *Education and Care Services National Law* (section 5(1)).

Under this eligibility criteria, the centre-based service does not have to be an approved kindergarten program provider, which requires that the program meets certain operational and legislative requirements, including that the program is delivered by an early childhood teacher. In some instances, the nearest centre-based service catering for kindergarten age children may not offer an approved kindergarten program or access to an Early Childhood Teacher (ECT). Changes are necessary to promote accessibility of the eKindy distance education program as an option for children to access a quality kindergarten program delivered by an ECT to best prepare them for school.

In addition, currently under the medical eligibility requirements of section 419F of the EGPA, a child’s eligibility for eKindy is based on more than 10 consecutive weeks of absence from a kindergarten due to a child’s state of health. This criteria limits access to the eKindy program for families that may experience 10 cumulative weeks of absence from a centre-based service to manage their child’s health needs. The current drafting of the registration criteria does not adequately cater for the health care needs of a child that is unable to attend a centre-based service for periods of time across the kindergarten year where medical care is intermittent and amounts to more than 10 weeks.

To better reflect the intent of the accessibility of eKindy, the Bill clarifies the distance and medical eligibility for registration in the eKindy program by:

- amending the current distance criteria of 16km from the nearest centre-based service ‘catering to kindergarten age children’ to instead be 16km from a centre-based service ‘delivering an approved kindergarten program’, or a prescribed state school that provides a state school kindergarten program; and

- amending medical eligibility criteria to enable children who are likely to be absent from a kindergarten for at least 10 cumulative weeks (not consecutive), with access to eKindy.

### **Protecting students and school communities**

#### **Transfer notes**

The Bill sets out reforms to provide for the timely and effective sharing of relevant student information between schools. These reforms support strengthened protections for students and school communities.

Chapter 14 of the EGPA enables the sharing of prescribed student information, through a transfer note, where a student is moving from one Queensland state or non-state school to another. The type of information included in a transfer note is student-identifying information, medical details, school details, level of schooling and allocation of state education, attendance, educational performance, educational support, behavioural issues and custody, residence or guardianship orders.

The purpose of giving a transfer note to a principal is to provide information about a student that will help the principal of a state or non-state school to ensure continuity of the student's educational program; and meet the principal's duty of care obligations in relation to the student and the school community (existing section 385 of the EGPA).

The use of transfer notes is currently optional. The EGPA enables a parent of a student (or the student) or a principal to request a transfer note from the student's former school in the following circumstances:

- for a parent/student – when the student's enrolment ends (existing section 386 of the EGPA); or
- for the principal of a student's new school – when an application for enrolment at the new school has been made (existing section 387 of the EGPA).

The Royal Commission found the transfer of a student's relevant information to be a significant factor in the successful transition of a student between schools.

Recommendation 8.15 of the Royal Commission set out that information provided to a student's new school should be proportionate to its need for that information to assist in meeting the student's safety and wellbeing needs, and those of other students at the school; and that information should be exchanged between principals, or other authorised information sharers, and disseminated to other staff members on a need-to-know basis.

It is critical to protect students and school communities and to ensure that schools provide appropriate support for students. The Bill includes amendments to facilitate timely and effective sharing of relevant student information between Queensland schools and strengthens protections for students and school communities, consistent with the Royal Commission recommendations.

The Bill includes amendments to chapter 14 of the EGPA to provide for mandatory use of transfer notes when a student is moving between Queensland schools (state or non-state). The principal of the student's new school will be required to ask, within 90 days after the student is enrolled at the new school, the principal of the student's previous school for a transfer note for the student. The transfer note must be provided to the requesting principal within 10 school days.



The intent of these amendments is to make it clear that a principal must request a transfer note once the student has commenced their education at the new school. Requesting transfer notes after a student is enrolled and commenced at the new school mitigates a risk that a school might use information in a transfer note to refuse enrolment.

The 90-day period post transfer to the new school is approximately a term of school and will provide time for the principal to welcome and settle the student into their school, and make their own assessment of the student. It enables the most up to date information about the student to be provided to the new school to best support continuity in education or the safety and wellbeing of the student or school community. Setting the timeframe at 90 days rather than 90 school days ensures that if the timeframe coincides with one or more holiday periods that the timeframe is not extended by those holiday periods.

The amendments in the Bill provide that the principal of the student's new school can also choose to request a transfer note from any other Queensland state or non-state school (a former school) the student may have attended in the previous 12 months.

The Bill sets out that a principal is not required to request a transfer note if the principal already has the information about the student prescribed by regulation for a transfer note. This is to reflect that a principal may already have, or have access to, the required information. For example, via the department's online student and school data management system, OneSchool, or if a parent has requested a transfer note from the student's previous school and provided it to the new school.

Additionally, the Bill amends chapter 14 of the EGPA to provide that where a transfer note is requested by a principal of a student's new school, the transfer note must also include information about the student that the principal of the previous school or former school reasonably believes is necessary to help the principal of the new school protect the safety and wellbeing of the student or members of the school community.

The amendments would commence on Proclamation to ensure sufficient time for implementation, including providing education and guidance to principals in the state and non-state schooling sectors.

### **Technical amendments**

The Bill includes a number of technical amendments to support the operation of Queensland statutes by updating legislative cross references in the *Child Protection Act 1999* and the EGPA.

## **Alternative ways of achieving policy objectives**

The EGPA currently provides for matters associated with the Bill's policy objectives, including:

- The issuing of school disciplinary absences;
- Information sharing;
- Home education;
- eKindy;
- Transfer notes;
- Enrolment and special education; and
- P&Cs.

In order to achieve the policy objectives, legislative amendments are necessary per the Bill.

## Estimated cost for government implementation

Many of the amendments set out in the Bill are aimed at delivering greater efficiencies in delivering education in Queensland. This is particularly relevant for the amendments providing for special school enrolments, approved online services, P&Cs, and eKindy.

While there will be costs for government implementation of the Bill, these costs are not expected to be substantial. Overall, costs are likely to occur as a result of staff training and the development of supporting materials to communicate the changes to principals, schools, student, parents and the community.

Any potential costs will be met from existing budget allocations and are anticipated to be off-set in the longer term as process efficiencies are realised.

## Consistency with fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) states that fundamental legislative principles (FLP) are the principles relating to legislation that underlie a parliamentary democracy based on the rule of law. Under section 4(2) of the LSA, to be consistent with FLPs, legislation must have sufficient regard to fundamental legislative principles about the rights and liberties of individuals and to the institution of Parliament.

Under section 4(3)(c) of the LSA, sufficient regard to rights and liberties of individuals depends on whether the legislation allows the delegation of administrative power only in appropriate cases and to appropriate persons. Under section 4(4)(c) of the LSA, the legislation must have sufficient regard to the institution of Parliament and whether the Bill authorises the amendment of an Act only by another Act.

While the amendments in the Bill are generally consistent with FLPs, there are amendments that could be considered to potentially have inconsistencies and subsequently explanation and justification is provided below.

### Approved online services

The Bill amends the EGPA to enable the disclosure of state school students' relevant personal information by a public service employee of the department to an approved online service provider without the need for prior parent/student consent, while ensuring appropriate information privacy safeguards.

Under section 4(2) of the LSA, legislation must have sufficient regard to the rights and liberties of individuals. The right to privacy, the disclosure of private or confidential information, and privacy and confidentiality issues have generally been identified by the Scrutiny Committee as relevant to consideration of whether legislation has sufficient regard to the rights and liberties of individuals.

The proposed amendment potentially interferes with a person's privacy and therefore is potentially inconsistent with the FLP that legislation must have sufficient regard to the rights and liberties of individuals.

The purpose of the amendments is to reduce administrative burden for parents, students and schools to better facilitate students accessing approved online services for digital learning and the support, administration and management of schools, while ensuring appropriate safeguards.

In an increasingly digital environment, it is essential to balance the provision of online services with measures to protect students and reduce the risk of information mismanagement by online

service providers.

The amendment includes a number of information privacy safeguards, including requiring that student information will only be recorded, used or disclosed for the purpose of an approved online service. The chief executive may approve an online service if the chief executive is reasonably satisfied that:

- the service is required for either or both of the following purposes: providing services for the education and educational support of students; and the effective or efficient management of state schools; and
- a contract or other arrangement entered into with an entity that provides, or is to provide, the online service is a service arrangement (under the IP Act, section 34) and the entity is a bound contracted service provider (within the meaning of the IP Act) in relation to the contract or arrangement; and
- an appropriately qualified officer of the department has assessed the service according to a framework for assessing the privacy and online security of personal information about a student disclosed to, or recorded or used by, the service; and
- the service is suitable to protect the privacy and online security of relevant information about the student disclosed to, or recorded or used by, the service; and
- the service does not require the disclosure to, or recording or use by the service of sensitive information (within the meaning of the IP Act) about the student.

Parents / students will still have the ability to opt out of using an approved online service. The responsibilities and processes for obtaining and managing consent are currently provided for in the department's *Obtaining and managing student and individual consent procedure*, and are administratively managed by schools. Given the range of safeguards outlined above to protect the privacy and online security of the student personal information, it is considered that the potential breach of the FLP is reasonable and justified.

#### Parents and Citizens' Associations

The Bill modernises the P&C Associations regulatory framework under the EGPA to improve operational efficiency and provide clarity about the role and purpose of P&C Associations to continue to be responsive to the communities they serve. The following proposal is potentially inconsistent with FLPs.

#### *Disqualification of a member from a P&C Association executive or subcommittee*

The Bill contains amendments which provide that a person convicted of an indictable offence, other than a spent conviction, will be disqualified from becoming or continuing to be a member of a P&C Association executive committee or subcommittee.

This is a necessary imposition of suitability and eligibility for appointment of persons to these roles in recognition of the additional responsibilities and expectations required, beyond that of an ordinary member (for example, potential for members of P&C Association Executive committee and subcommittee to be involved in the financial operations of the associations). A conviction for an indictable offence will continue not to prohibit general membership of a P&C Association, all parents and carers will have opportunities to participate in the school community.

### Transfer notes

The Bill amends the EGPA to support more proactive and timely information sharing between schools about a student, via a transfer note, when the student changes schools within Queensland.

In addition, it is proposed to create a new obligation for principals of Queensland schools to share information with another school (only those in Queensland) that is reasonably believed to be necessary to protect the safety and welfare of the student who has moved schools, or students, staff or other persons at the student's new school.

#### *Principal's obligation to share information to protect the safety and wellbeing of a transferring student and members of the school community at the new school*

Under section 4(2) of the LSA, legislation must have sufficient regard to the rights and liberties of individuals. The right to privacy, the disclosure of private or confidential information, and privacy and confidentiality issues have generally been identified by the former Scrutiny of Legislation Committee as relevant to consideration of whether legislation has sufficient regard to the rights and liberties of individuals.

The EGPA already provides for the optional use of transfer notes; however, the Bill proposes that transfer notes will be mandatory. The proposed obligation for principals to proactively share information (including personal information and information reasonably believed to be necessary to protect the safety and wellbeing of the student or other people at the new school) about a student transferring from one school to another via a transfer note potentially interferes with a student's privacy.

Therefore, the amendments are potentially inconsistent with the FLP that legislation must have sufficient regard to the rights and liberties of individuals (section 4(2) of the LSA).

Neither the student nor parent of the student are required to give prior consent for this information sharing, and cannot prevent the information being shared between schools. However, where a transfer note is requested by a principal from the student's previous school, the parent / student will be notified by the requesting principal about the transfer note and be able to obtain a copy.

Persons who obtain personal information through a transfer note are subject to the general confidentiality restrictions outlined in section 426 of the EGPA. This includes (but is not limited to) the chief executive or a public service employee in the department, and an employee of a Queensland state school or relevant non-state school (sections 426(1)(a) and 426(2)(a) of the EGPA).

The purpose of the information sharing via the transfer note is to ensure continuity of the student's educational program and meet the principal's duty of care obligations in relation to the student and the school community (including protecting the safety and wellbeing of the student and school community).

In addition, the Royal Commission found that the transfer of a student's relevant information is one of the most significant factors in successful transition to a new school, and may be particularly necessary where the student has:

- engaged in harmful sexual behaviours and, as a consequence, may pose risks to other students; or
- experienced sexual abuse and as a consequence had particular educational and support needs.

The Royal Commission emphasised the importance of ensuring schools are able to address the educational and support needs of students who have been victims of sexual abuse, noting associated negative effects on academic achievement, learning ability, cognitive function, concentration, educational engagement and school completion rates.

The Royal Commission made a number of recommendations which call for states and territories to provide for student information to be exchanged between schools in a manner that is proportionate, proactive and cross-sectoral to ensure continuity of the student's educational program when a student transfers schools and to provide appropriate protections to both the student transferring and to the other students and staff at the new school.

Given the underlying policy intent of the transfer note, the Royal Commission findings and recommendations, and the confidentiality safeguards within the EGPA, it is considered that the potential breach of the FLP is reasonable and justified.

## Consultation

Consultation on proposed reforms in this submission occurred when policy positions were presented for stakeholders in 2024. Stakeholders generally supported the proposed reforms.

The Home Education sector strongly supported the proposed amendment for extending age eligibility for home education registration.

The proposed reforms for approved online services support efficient administration of consent management for the use of third-party online services in state schools. The amendments in the Bill will reduce the regulatory burden on state schools, parents and students by providing a robust legislative framework. This framework will enable the approved use of student information for particular online services used for educational or administration purposes, that have been approved by the chief executive.

The Queensland Law Society considered that existing administrative consent processes for student information for online services should be retained, including an opt out process for students and / or parents.

The proposed reforms will still allow for students and / or parents to opt out from using an online service if they choose to do so. In cases where an online service will not be considered an 'approved online service', consent will be required from a student and/or parent before information can be provided by the state school.

The proposed reforms for transfer notes set out that a principal of a new school must request a transfer note from the student's previous school within 90 days of the student being enrolled. This period was determined to ensure that a student can commence at a new school with information to support them being provided in a reasonable period. Requesting the transfer note after enrolment was proposed to eliminate the potential of information being used to discourage a student from enrolling at a particular school.

There are recognised impacts of moving to a proactive information sharing framework via transfer notes. This is balanced by the critical outcome of strengthening protections for students and school communities, consistent with recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse, and supporting continuity of education.

Youth advocacy and parent association stakeholders' feedback on the proposed mandatory use of transfer notes included a student's right to a 'fresh start'. Unions, principal associations and the non-state school peaks raised concerns about an increase in administration for schools.

Independent Schools Queensland also raised concern that there is currently no system for secure data sharing between schooling sectors and the anticipated increased transfer of data may also increase the risk of a data breach of sensitive information relating to students and parents. Information included in transfer notes will need to be managed in accordance with the existing requirements of Queensland and Commonwealth privacy legislation, as it is now.

State schools already share student information via the OneSchool system. This provides transfer notes within the system for students moving between state schools and provides information that can be provided when a student moves from a state school to a non-state school. Independent schools in the non-state school sector are less likely to have systems in place for the purpose of transfer notes.

The transfer notes reforms will not commence for up to 12 months after passage of the Bill to enable the Department of Education and the non-state sector to work collaboratively on implementation.

## **Consistency with legislation of other jurisdictions**

The amendments in the Bill are generally designed to improve processes within the Queensland regulatory system, and are specific to the Queensland regulatory framework which has been developed over more than a century.

All Australian jurisdictions have legislation that provide for education systems, including legislation regarding information sharing, student discipline, P&Cs, kindergarten education, special schools and home education. When considering the legislative amendments, the approaches of other jurisdictions were reviewed. However, in general, as each jurisdiction's legislation is designed differently and for circumstances relevant to the jurisdictions, direct comparisons in relation to the detail of particular amendments is not always possible.

### *Approved online services*

Like Queensland, some jurisdictions have education-specific enabling legislation that contain similar confidentiality provisions to the EGPA in relation to consent requirements. Other jurisdictions do not have education-specific enabling legislation, instead relying on privacy principles in their respective jurisdictional privacy legislation. The Victorian Department of Education uses an 'opt out' model for consent to use online services, and will only seek parent, carer or guardian consent where there is sensitive student personal information used or disclosed in association with the use of an online service.

### *Home education age eligibility*

New South Wales, the Australian Capital Territory and Western Australia allow a young person to be registered until 18 years of age, while in other jurisdictions the age eligibility ends when the young person is 17.

New South Wales also provides that a young person who is 18 can continue to be registered for a period of up to two years, in order to complete a planned education program based on the NSW Education Standards Authority's syllabuses.

### *Enabling principals to delegate the notification of suspension decisions*

In other jurisdictions (for example, New South Wales, Victoria and South Australia) policies and procedures are more often used to regulate school disciplinary processes, with legislation only providing high level authority for these policies and procedures. In the Australian Capital

Territory, the principal must tell the student of a suspension, but no other jurisdiction's legislation prescribes this requirement.

*Special school enrolment*

There are no directly comparable legislative provisions in other jurisdictions. However, other jurisdictions do ensure, through a mixture of legislation and policies and procedures, the integrity and transparency of enrolment processes for special schools.

*Parents and Citizens' Associations*

There are no directly comparable legislative provisions in other jurisdictions. However, other jurisdictions do ensure the integrity and transparency of P&C Associations through a mixture of legislation, policies and procedures.

*Transfer notes*

In most other jurisdictions there is a requirement to transfer some level of student information when they change schools. However, the regulatory frameworks across jurisdictions vary widely, making direct comparisons difficult. There is a broad variety of frameworks set out in both education and child protection legislation which operate against the background of state and territory privacy laws and / or federal privacy legislation applicable to relevant non-state schools.

# Notes on provisions

## Part 1 Preliminary

Clause 1 provides that the short title of the Act is the *Education (General Provisions) Amendment Act 2025*.

Clause 2 provides that the following provisions of the *Education (General Provisions) Amendment Act 2025* commence on a day to be fixed by proclamation:

- part 2, division 3;
- schedule 1, part 2.

## Part 2 Amendment of Education (General Provisions) Act 2006

Clause 3 provides that Part 2 amends the *Education (General Provisions) Act 2006*.

Clause 4 amends section 53 to make minor corrections to sectional references to address inaccuracies and inconsistencies in the current legislation, to assist clarity.

Clause 5 amends section 127 to clarify that the provision of funds by the P&C to other P&Cs or schools is not an urgent matter to which the executive committee can take action without support from the general P&C membership. This is consequential to new amendments to allow P&Cs, if supported by the membership, to provide funds to other P&Cs or schools if they are affected by an adverse event, such as a natural disaster (see sections 132 and 142A).

Clause 6 amends section 132 to allow P&Cs to provide funds to other P&Cs or schools if they are affected by an adverse event, such as a natural disaster.

Clause 7 inserts new section 142A to allow a P&C to give or assist in the giving of financial or other resources or services to a school, or another P&C in Queensland, if the relevant school is affected by an adverse event (such as a natural disaster, or a deliberate act, such as an act of terrorism) which affects the school's ability to provide primary, secondary, special education or other educational instruction. This will apply to campus P&C Associations after commencement of the provisions that will allow the formation of campus P&C Associations.

Clause 8 amends section 180 (Notice to principal of non-state school) to provide that the chief executive may, by notice given to the principal of a non-state school or the non-state school's governing body, ask the principal or the school's governing body for the information mentioned in the provision. This amendment reflects that the information being requested by the chief executive may be in the control of a non-state school's governing body because section 197A requires the governing body must keep a record of the information that may be requested under section 180(1)(b). The reference in section 180(1)(b) to information in the record kept by the school's governing body under section 197A is removed because it is unnecessary.



This clause also amends section 180 to provide that if the chief executive gives the governing body a notice under the provision, the chief executive must give the principal a copy of the notice. Section 180 is also amended to clarify that a principal of a non-state school or the school's governing body that receives a notice under section 180 from the chief executive must give the chief executive the information, and in the way requested in the notice.

Clause 9 amends section 206 to extend the age of a child who is eligible for provisional registration, or registration, for home education by 12 months, by providing a child is eligible until 31 December in the year the child turns 18.

Clause 10 amends section 229A to provide that provisional registration, or registration, for home education ends on 31 December in the year the child turns 18 years, to align with the change to eligibility for registration for home education under amended section 206 (clause 8). A consequential amendment is also made to the heading of section 229A.

Clause 11 amends section 251AB (Notice to non-state school's principal) to provide that the chief executive may, by notice given to the principal or the governing body of a non-state school, ask the principal or governing body for information about decisions made under section 248.

This amendment reflects that the information being requested by the chief executive may be in the control of a non-state school's governing body because section 251AA requires the governing body must keep a record of the information that may be requested under section 251AB. This clause also removes an unnecessary reference to information in the record kept by the school's governing body under section 251AA.

This clause also inserts new subsection (2) in section 251AB to clarify that a principal of a non-state school or governing body who receives a notice from the chief executive must give the chief executive the information, and in the way requested in the notice.

Clause 12 amends section 283 to provide that a principal must tell a student about a suspension. While this is already provided for in the provision, this amendment provides greater clarity and is consequential to further amendments to allow the telling the student about a suspension to be delegated by the principal.

Clause 13 amends the heading of chapter 12, part 3, division 2, sub division 3 to incorporate the delegation of particular matters by a principal, which are given effect by amendments in this Bill.

Clause 14 inserts section 289A to enable the principal to delegate the function of telling students about a suspension decision to an appropriately qualified teacher at the school who assists the principal with the management of the school. Examples of who may tell the student are: the head of a primary or secondary school, a deputy principal, or the head of a campus of the school. The principal will still make the decision about a suspension, but the delegated person will be able to tell the student of the principal's decision.

Clause 15 provides for transitional amendments relating to provisions commencing on assent. It inserts the following transitional provisions:

- Section 544, which prescribes definitions for the transitional provisions;
- Section 545, which provides that the amended section 180 applies in relation to information whether the information came into existence, or relates to a decision made under section 189, before or after the commencement.

- Section 546, which provides that the amended section 206 applies in relation to a child's eligibility to be provisionally registered or registered for home education, whether the registration takes effect before or after the commencement; and the amended section 229A applies in relation to the ending of the child's registration.
- Section 547, which provides that the amended section 251AB applies in relation to information whether the information came into existence, or relates to a decision made under section 248, before or after the commencement.

Clause 16 amends section 19 to ensure that before a school is closed, the Minister must consult with both the P&C or where there are multiple campus associations, with each association. This is as a consequence of the creation of campus P&C Associations for schools with multiple campuses, defined as regional state schools, as part of the Bill.

Clause 17 amends section 77 to modify definitions in relation to chapter 6 School Councils to incorporate campus P&C Associations for regional state schools. As the provisions in chapter 6 provide for School Councils, but also how School Councils interact with P&Cs, the amendments to create campus P&C Associations for schools with multiple campuses (regional state schools) have created a range of consequential amendments to chapter 6.

Clause 18 amends section 85 to provide for official members of a school council for campus P&C Associations for a regional state school, mirroring requirements in relation to all other P&C Associations.

Clause 19 amends section 88 to provide for alternative association members of a school council for campus P&C Associations for a regional state school, mirroring requirements in relation to all other P&C Associations.

Clause 20 amends section 89 to provide for requirements in relation to a chairperson of a school council who is also the president of a campus P&C Association. The amendments mirror current requirements in relation to a president of a P&C Association.

Clause 21 amends section 94 in relation to a school council constitution and how it must provide for notice that a P&C Association must give in relation to the appointment of particular members of the school council membership. The amended section mirrors requirements for campus P&C associations to the current requirements for P&C Associations.

Clause 22 amends section 95 in relation to a school council constitution and how notice must be given to a P&C Association before the constitution is changed. The amended section mirrors requirements for campus P&C Associations to the current requirements for P&C Associations.

Clause 23 amends section 102 to mirror requirements for campus P&C Associations to the current requirements for P&C Associations in relation to the attendance by proxy of members of the school council.

Clause 24 amends section 109 to mirror requirements for campus P&C Associations to the current requirements for P&C Associations in relation to processes that must be undertaken for approving an initial constitution for a school council.

Clause 25 amends section 118 which provides for the formation of P&C Associations. It clarifies that this section does not apply to campus P&C Associations and inserts a note to advise that formation of campus P&C Associations is also dealt with under part 11.

Clause 26 amends section 119 to provide that this section (formation of interim P&C Association) does not apply to schools that are a regional state school, which is a school with multiple campuses that is prescribed.

Clause 27 amends section 122 to provide that a P&C Association is dissolved if a school becomes a regional state school, as separate campus P&C Associations will be formed for each campus.

Clause 28 amends section 126 to restrict a person from being a member of a P&C Association executive committee if they are convicted of an indictable offence, other than a spent conviction.

Clause 29 amends section 130 to disqualify a person from being a member of a P&C Association subcommittee if they are convicted of an indictable offence, other than a spent conviction.

Clause 30 amends section 139 to provide that a Regulation may provide for membership of a campus P&C Association, subject to the EGPA, in the same way that it can provide for other P&C Associations.

Clause 31 inserts a new part 11 in chapter 7 to provide for the formation and administration of campus P&C Associations for regional state schools. A regional state school must have multiple campuses and be prescribed in a regulation. The new provisions will allow a separate P&C Association for each campus of the school. This is intended to allow schools in regional areas, such as the Torres Strait, with multiple campuses that are geographically dispersed, to have a separate P&C Association for each campus rather than just one for the school. The new part is designed to mirror similar provisions relating to other P&C Associations and provides for matters including:

- the application of part 11 to regional state schools, which is a state school that has more than one campus and is prescribed in a regulation (section 154A);
- definitions for the part 11 (section 154B);
- formation of campus P&C Associations for campuses of regional state schools (section 154C);
- formation of interim campus P&C Associations of regional state schools (section 154D);
- objectives and functions of campus P&C Associations (sections 154E and 154F);
- dissolution of a campus P&C Association (section 154G);
- the application of chapter 7, parts 2-10, which provide for the administration of P&C Associations, to campus P&C Association, enabling campus P&C Associations to function in the same way as other P&C Associations (section 154H);
- the application of references to schools, principals and staff members in the EGPA in relation to P&C Associations and how this applies to a campus P&C Association (sections 154I – 154K); and
- the role of the campus P&C Association in relation to the school and campus it represents (section 154L).

Clause 32 amends section 156 to streamline enrolment processes for special schools by enabling a principal of a special school to make a decision on an enrolment of a student who was previously enrolled in another special school, rather than deferring the student's application to the chief executive, as was previously required.

Clause 33 amends the heading of chapter 14 (Transfer note) to reflect that chapter 14 also provides for matters related to transfer notes.

Clause 34 replaces chapter 14, part 1 (preliminary) and part 2 (request for transfer notes) with a new part 1 (preliminary) and new part 2 (transfer notes and transfer of records) including new division 1 and new division 2 under new part 2.

New part 1 of chapter 14 inserts the following sections:

- new section 383, which provides definitions for chapter 14.
- new section 384, which provides for the meaning of a transfer note.

New part 2 of chapter 14 inserts the following sections:

- new sections 385 and 386, which provides for a parent or student (in particular circumstances) to request a transfer note at the cessation of the student's enrolment at a school. New sections 385 and 386 replace former section 386, to simplify the drafting of former section 386 without changing the policy intent.
- new sections 385 and 386 also insert a time limit for when a transfer note requested under those sections must be prepared by the principal. Instead of the transfer note being required to be prepared "as soon as practicable" under former section 386, new sections 385 and 386 require the transfer note to be prepared within 10 school days after being requested by the parent or student.
- new section 387, which provides for the purpose of new division 2 of chapter 14, part 2.
- new section 388, which provides for the application of new division 2 of chapter 14, part 2. New section 388 provides that new division 2 of chapter 14, part 2 applies when a student moves from one state or non-state school to another and the principal of the student's new school does not have information of the type prescribed by regulation for a transfer note.
- new section 388A, which provides definitions for new division 2 of chapter 14, part 2.
- new section 388B, which provides that if new division 2 of chapter 14, part 2 applies, the principal of a student's new school must, within 90 days after the day the student is enrolled at the new school, ask the principal of the student's previous school to prepare a transfer note for the student. New section 388B also provides that, within the same 90-day period, the principal of the student's new school may ask the principal of any other state or non-state school the student was enrolled at within the previous 12 months (defined as a former school) to prepare a transfer note for the student. New section 388B also provides that the principal of the student's new school must give notice of the principal's request (for a transfer note from the principal of the previous school or a former school) to the parent or the student, if the student is an adult.
- New section 388C, which provides the principal of the student's previous school or former school must, within 10 school days after receiving a request for a transfer note under section 388B, prepare a transfer note for the student and give the transfer note and a copy of any related documents to the principal of the student's new school. New section 388C also provides that the principal of the previous school or former school must include in the transfer note any information about the student that they reasonably believe is necessary to help the principal of the student's new school protect the safety and wellbeing of the following persons: the student; the members of the school community.
- New section 388D, which provides the principal of the student's new school must give a copy of the transfer note and of any related documents to the parent or student if they request

a copy. New section 388D also provides the time period within which the principal of the student's new school must give the copy of the transfer note and any related documents to the parent or student:

- if the parent or the student asks for a copy of the transfer note within 10 school days after the principal gives the person or student a notice under section 388B(2) or (3)(b) — the principal must give the copy within 10 school days after receiving the transfer note from the principal of the previous school or former school;
  - if the parent or the student asks for a copy of the transfer note more than 10 school days after the principal gives the relevant person or student a notice under section 388B(2) or (3)(b) — the principal must give the copy within 10 school days after the principal receives the request for a copy of the transfer note from the parent or the student.
- New section 388E, which replaces former section 388 to make consequential amendments to that section as a result of other amendments to chapter 14 but without changing the policy intent of former section 388.

Clause 35 amends section 419F to clarify the distance and medical eligibility requirements for a distance education kindergarten learning program. The amendments:

- clarify that the 16-kilometre distance criteria from the child's home is to the nearest relevant kindergarten, which is defined to mean a centre-based service that provides an approved kindergarten program or prescribed state school that provides a kindergarten learning program.
- broaden the medical condition eligibility requirements to clarify that a child has medical grounds for needing a distance education kindergarten learning program if: the child has one or more medical certificates stating that the child is unable to attend a centre-based service for a period during the child's registration year due to the child's state of health; and the total period is more than 10 weeks (which can be cumulative).
- provide relevant definitions for the section including definition of 'approved kindergarten program' and 'relevant kindergarten'.

Clause 36 makes consequential amendments to section 426 to reflect changes made by the Bill in the amended transfer note provisions (under clause 34), which no longer refer to a student as a continuing student. Clause 36 also makes amendments to section 426 to reflect new section 426A.

Clause 37 inserts new section 426A to provide the chief executive with the authority to approve an online service (as an approved online service) that requires the disclosure, recording or use of personal information about a student of a state school, if the chief executive is reasonably satisfied of prescribed criteria relating to the online service.

New section 426A also provides authority for a public service employee of the department to disclose, to an entity that provides an approved online service, relevant personal information about a state school student; or make a record of, or use, relevant personal information about the student for the purpose of disclosing the information to the entity that provides the approved online service.

New section 426A further provides that the chief executive must ensure a list of all approved online services is made available for public inspection, without charge, at the department's head office and on the department's website.

Clause 38 inserts a new chapter 20, part 11, division 3 to provide for transitional amendments to allow for the effective implementation of the provisions of the Bill. The following sections are inserted:

- Section 548 provides that an application made under former section 156 and referred to the chief executive under former section 156(3) for special school enrolment received prior to commencement will be considered under the pre-amended provisions.
- Section 549 clarifies how existing applications for registration in a distance education learning program made under former section 419F, which have not been decided or withdrawn on commencement will be dealt with; on commencement the application must be decided under the section 419F.
- Sections 550 and 551 clarify how a review of a decision to refuse to grant registration in a distance education kindergarten learning program that are ongoing on commencement will be dealt with, by providing that the chief executive must decide the review under the new section 419F.
- Section 552 clarifies the application of former section 386 to a request for a transfer note made under former section 386(1)(b) or (3)(d) where the school's principal had not given the transfer note to the person making the request.
- Section 553 clarifies the application of former section 387 to a request for a transfer note made under former section 387 where the new school's principal had not given notice asking for a transfer note, given notice that the first notice had been given, or not given the transfer note to the person making the request.
- Section 554 clarifies the application of new section 426A to particular information about a student of a state school accessible to a public service employee of the department before the commencement.
- Section 555 validates existing campus P&C Associations that are in place for each campus of Tagai State School, which will be prescribed as a regional State school allowing it to have campus P&C Associations for each campus of the school.

Clause 39 provides for new or amended definitions in Schedule 4 to reflect the changes to the EGPA in the Bill.

## Part 3 Other amendments

Clause 40 provides that this part amends legislation as set out in the part. This part provides for technical and consequential amendments.

### Schedule 1 Part 1 Amendments commencing on assent

The *Child Protection Act 1999* is amended to update the reference to the *Education (Accreditation of Non-State Schools) Act 2001* in the definition of **prescribed entity** to refer to the *Education (Accreditation of Non-State Schools) Act 2017*.

Minor amendments are made to schedule 4 of the *Education (General Provisions) Act 2006* to update references to sections and other legislation.

**Schedule 1 Part 2 Amendment commencing on assent**

A minor amendment is made to section 419F of the *Education (General Provisions) Act 2006* to update a sectional reference.

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