

# Enrolment and attendance enforcement – procedures

## Policy statement

Under the *Education Act 2015* (the Act), all children and young people of compulsory school age must be enrolled in an Northern Territory (NT) Government school or a registered non-government school and attend school each day that the school is open for instruction, unless the student has entered a compulsory participation phase and is participating in an eligible option.

The NT Department of Education (department) actively promotes and works in partnership with families, children and young people to ensure enrolment and attendance. Where reasonable and sustained efforts have been exhausted to satisfactorily achieve compulsory enrolment and attendance, enforcement powers provided for under the Act may be undertaken. This document outlines procedures to be followed and executed by authorised persons when enrolment and attendance enforcement powers are used. Enforcement powers cannot be applied to children enrolled in preschools.

For enforcement procedures relating to eligible options, go to the department's Enrolment webpage.

## Roles and responsibilities

### Principals or nominated staff members

Principals or nominated staff members must:

- monitor the passive form
- ensure relevant staff understand enforcement powers and procedures through appropriate professional development
- ensure appropriate support is in place to facilitate student re-entry, such as applying re-engagement strategies or making flexible education arrangements
- ensure all school-level efforts to re-engage the student have been exhausted before making a referral to Student Engagement Programs and Services.

### Authorised persons

Authorised persons will:

- undertake appropriate professional development on enrolment and attendance enforcement
- support schools in their implementation of engagement strategies
- maintain accurate records of their actions in the department's mandated case management system.

### Student Engagement Programs and Services

Student Engagement Programs and Services will:

- ensure authorised persons undertake the training on enrolment and attendance enforcement

- refer cases of unsuccessful re-engagement to Education Regulation after the issue of an infringement notice.

## Enforcement powers

Authorised persons have discretion to use enforcement powers for non-compliance with compulsory enrolment and attendance requirements.

## Identification requirements

An authorised person may exercise a power in relation to a person only if the authorised person produces their identity card to the person for inspection prior to enforcing or executing any powers under the Act.

## Request for information

Authorised persons may request information to determine why a compulsory school-age child or young person is not at school during school hours. In requesting this information, an authorised person may:

1. take the details of a child or young person including their name, age, address and their explanation as to why they are not attending school
2. visit the parent and or the child or young person at their address or another appropriate place
3. ask questions regarding the child or young person's enrolment to any other person apparently aged 14 or above who is present. Questions can also include details of all children and young people of compulsory school-age who usually reside at the same address.

## Information notice

An information notice is provided as the first point of formal contact between an authorised person and the parent of a child or a child living independently. It is used to request information about the child or young person's non-compliance with compulsory enrolment and attendance requirements and notifying them of legal consequences.

## Compliance notice

A compliance notice is a legal written warning of the belief a person has breached the Act. The Chief Executive (CE) has a discretion under the Act to issue a compliance notice. Authorised persons have the delegated authority to issue a compliance notice on behalf of the CE.

A compliance notice is issued to a parent or a child living independently specifying what must be done to comply with the notice. Normally, the direction will be around compelling a student to attend school or to participate in an eligible option. Failure to comply with a compliance notice can result in an infringement notice being issued or prosecution. An infringement notice can be issued to, or prosecution can be commenced against, the parent of a child or a child living independently for non-compliance.

If a person complies with the conditions within a compliance notice, the issuing officer must by written notice revoke the compliance notice to the person it was originally issued to.

## Direction to enrol

A direction to enrol is a written notice issued by an authorised person to a parent or to a child living independently, requiring the child or young person to be enrolled in a school within 10 school days after the notice is issued.

An authorised person must:

1. have formed a reasonable belief prior to exercising their discretion to issue a direction to enrol
2. clearly explain in the written notice what a direction to enrol means and what the consequences are for non-compliance
3. provide advice on the enrolment process and the next steps to be undertaken by the parent or by the child living independently
4. seek information to determine if there are any barriers to enrolment and or attendance
5. liaise with the school where enrolment is intended
6. contact the nominated school on the date by which the child is expected to be enrolled to ensure enrolment has been completed
7. continue to monitor until the child or young person is appropriately engaged in school.

If the child is not enrolled, the authorised person:

1. should attend the child's home or usual residence to determine why
2. may extend the direction to enrol for a further 10 days in special circumstances. Special circumstances include unavailability of a permanent address, serious health issues, or domestic and family violence concerns
3. may issue an infringement notice if there is no reasonable excuse as to why the child or young person is not enrolled.

## Compulsory conference

If an authorised person reasonably believes that a direction to enrol is not being complied with, the authorised person can request a compulsory conference through a written notice. The purpose of a compulsory conference is to address the issues contributing to enrolment and attendance issues. To achieve this purpose, an authorised person:

1. can request attendance by all appropriate persons, including the principal or nominated staff member, the parent, and the child or young person
2. in the case that a parent is requested to attend a compulsory conference but fails to attend, determines if the excuse provided by the parent is reasonable
3. at the conference, seeks to identify and resolve issues in dispute and or identify any support and services that can be provided to the child or young person or their family
4. works with all relevant stakeholders to develop an engagement plan
5. should escalate complex cases to their line manager for advice.

## Infringement notice

An infringement notice is a financial penalty for non-compliance with compulsory enrolment and attendance requirements. The notice is issued by an authorised person to compel parents of children and children living independently to fulfil their obligations in relation to compulsory enrolment and attendance rather than having the offence heard in a court of law. However, the parent of a child or a child living independently may still elect to have an infringement notice contested in court.

The Education Regulations 2015 sets out the offences considered as prescribed offences and for which an infringement notice can be issued.

Provision of the Act	Prescribed amount – penalty units
Sections 39(1), 40(2), 42(2), 70(2), 71(4), 94(2), 151(1), 171(5), 172(7), 173(11), 175(3) and 176(2)	2
Section 39(2), 40(3), 42(3), 70(3), 71(8), 94(3), 171(6), 172(8), 173(12), 174(3), 175(3) and 176(3)	0.2

The value of a penalty unit is calculated in line with changes to the Consumer Price Index. For penalty units, go to the Penalty units webpage of the Department of the Attorney-General and Justice.

An infringement notice can be issued to the parent of a child or a child living independently in any of the following circumstances:

- fail to ensure the child or young person is enrolled in a school
- fail to ensure the child or young person is either attending school each day that the school is open for instruction
- fail to comply with the request for information
- fail to comply with the direction to enrol
- requested to attend a compulsory conference but fail to attend without a reasonable excuse
- fail to comply with a compliance notice

An infringement notice should only be issued when reasonable engagement strategies and compliance enforcement measures have been exhausted. When issuing an infringement notice, an authorised person must:

1. consider all matters to determine the merit of issuing an infringement notice, including clarifying what matters are relevant and what matters are not
2. apply procedural fairness
3. remove themselves from this process if they have a perceived or real conflict of interest and refer the matter to another authorised person
4. consider the impacts of a pending decision on the individual particularly when they are experiencing vulnerability.

## Referral to Education Regulation

The referral of a case to Education Regulation branch occurs after engagement strategies and compliance options have been unsuccessful. Education Regulation reviews the case to determine if it could or should be prosecuted, paying particular attention to the following:

- whether the elements of the offence are satisfied
- whether there is enough admissible evidence to prove the person has a case to answer
- establishing whether a reasonable prospect of a guilty verdict being secured
- determining that the offending person does not have a reasonable excuse
- whether it is a public interest to prosecute the person.

The process for a referral to Education Regulation is as follows:

1. an authorised person refers the case to their Assistant Director
2. the case then progresses to the Executive Director Inclusion and Engagement Services through Director Student Engagement and Senior Director Student Engagement Programs and Services
3. the Executive Director Inclusion and Engagement Services considers the referral and, if endorsed, forwards to the Executive Director Quality Standards and Regulation along with case notes.

## Prosecution

Prosecution is normally considered the last option. Commencing prosecution aims at re-engaging the student in education and deterring future offending. Following referral to Quality Standards and Regulation:

1. the Executive Director Quality Standards and Regulation considers the referral and if endorsed, progresses to Director Education Regulation who progresses it to the Prosecutions Manager for assessment
2. if prosecution is recommended, a Chief Executive memorandum is prepared for the Executive Director Quality Standards and Regulation signature seeking the Chief Executive (CE) approval to commence prosecution
3. if the CE approves prosecution commencing, Education Regulation prepares a prosecution brief. The initial authorised person in charge of the case will provide any additional evidence or background required for the prosecution brief
4. charges will be laid in a court of summary jurisdiction or youth court by Education Regulation
5. if prosecution is not recommended, Education Regulation prepares an Executive Director Quality Standards and Regulation memo setting out proposed recommendations for next steps, which may include referral back to Inclusion and Engagement Services.

## Related legislation

- *Education Act 2015* – <https://legislation.nt.gov.au/Legislation/EDUCATION-ACT-2015>
- *Education Regulations 2015* – <https://legislation.nt.gov.au/Legislation/EDUCATION-REGULATIONS-2015>
- *Fines and Penalties (Recovery) Act 2001* – <https://legislation.nt.gov.au/Legislation/FINES-AND-PENALTIES-RECOVERY-ACT-2001>

Acronyms	Full form
CE	Chief Executive
NT	Northern Territory

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