

Enrolment and attendance enforcement - procedure

Department of Education and Training

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Read this document together with the Enrolment and attendance birth to year 12 policy and Enrolment and attendance policy suite definitions. For enforcement procedures relating to eligible options, go to the department's Enrolment webpage.

1. Policy statement

Under the *Education Act 2015* (the Act), all children and young people of compulsory school age must be enrolled in a 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 an authorised person when enrolment and attendance enforcement powers are used. Enforcement powers cannot be applied to children enrolled in preschools.

2. Purpose

An authorised person has the discretion to use enforcement powers for non-compliance with compulsory enrolment and attendance requirements. These procedures outline the procedures for those powers under the Act.

3. Enforcement powers

3.1. Request for information

An authorised person 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.

3.2. 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.

3.3. Compliance notice

A compliance notice is a legal written warning of the belief a person has breached the Act. The Chief Executive (CE) has discretion under the Act to issue a compliance notice. An authorised person has 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.

3.4. Direction to enrol

A direction to enrol is a written notice issued by authorised person that 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, an 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.

3.5. Compulsory conference

If an authorised person believes on reasonable grounds that a person is not complying with a direction to enrol, they can request a compulsory conference through a written notice. The purpose of a compulsory conference is to address the underlying causes of enrolment and attendance issues.

To achieve this purpose, the 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. may, in the case that a parent is requested to attend a compulsory conference but fails to attend, determine if the excuse provided by the parent is reasonable
3. at the conference, should seek 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. should work with all relevant stakeholders to develop an engagement plan
5. should escalate complex cases to their line manager for advice.

3.6. 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.

An authorised person may issue a parent or child living independently with an infringement notice if they were issued a compliance notice in the past 6 months. In that situation, the authorised person must also confirm there is reliable evidence of ongoing disengagement and a failure to comply with the compliance notice. The authorised person will continue to issue infringement notices for the confirmed periods of non-compliance.

The Education Regulations 2015 sets out the offences considered as prescribed offences and for which an infringement notice can be issued and Schedule 3 details the penalty units.

Provision of the Act	Penalty units
Sections 39(1), 40(2), 42(2), 70(2), 71(4), 94(2), 151(1), 171(5), 172(7), 173(11), 175(2) 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 as detailed in the *Penalty Units Act 2009*. 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.

When issuing an infringement notice, the 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.

3.7. Enhanced income management

School attendance officers, appointed under section 166A of the Act may refer a parent to Services Australia under the child protection measure of enhanced income management (eIM). This is a compliance strategy that can be used to improve student attendance.

Referrals to eIM are made to support those students with evidenced, sustained absenteeism from school. This includes students who are on the Intensive support roll, zero attenders and all other students with an attendance rate less than 20%.

For more information about eIM referrals, read the Enhanced income management referral policy.

3.8. Identification requirements

If an authorised person is physically with the person they are issuing a notice to, they must present their individual identity card for the persons inspection. If the authorised person is not with the person, the authorised person is not required to present their identity card. This includes situations where the person cannot be found, it is not safe to approach them, or where the authorised person issues the notice by mail.

3.9. Referral to Education Regulation

After engagement strategies and compliance options have been unsuccessful, an authorised person may refer a case to Education Regulation. Further detailed steps and processes for referrals to Education Regulations are outlined in the Prosecution policy and procedure.

3.10. Prosecution

An authorised person managing a case may refer a case to Education Regulation for possible prosecution by completing the Prosecution referral form (Form P1) and the SAEPS Internal checklist for prosecution referral. Referrals will usually be made once all engagement attempts have been exhausted; however, not all enforcement steps need to have been completed to refer a case for prosecution. Further details and requirements to refer cases for prosecution are outlined in the Prosecution policy and procedure.

4. Roles and responsibilities

4.1. Principals or nominated staff members

Principals must:

- monitor the Intensive support roll
- 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 Attendance and Engagement Programs and Services
- implement the policy in their educational environment.

4.2. Authorised person

The authorised person 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.

4.3. Student Attendance and Engagement Programs and Services

Student Attendance and Engagement Programs and Services will:

- ensure each authorised person undertakes the training on enrolment and attendance enforcement
- refer cases of unsuccessful re-engagement to Education Regulation after they have exhausted engagement and compliance strategies
- ensure referrals to Education Regulation are made in accordance with the Prosecution policy and procedure.

5. Definitions

Refer to the Enrolment and attendance policy suite definitions.

6. Related legislation, policy and resources

6.1. Legislation

Education Act 2015 – <https://legislation.nt.gov.au/Legislation/EDUCATION-ACT-2015>

Education Regulations 2015 – <https://legislation.nt.gov.au/en/Legislation/EDUCATION-REGULATIONS-2015>

Penalty Units Act 2009 – <https://legislation.nt.gov.au/Legislation/PENALTY-UNITS-ACT-2009>

6.2. Policy

Attendance procedures – <https://education.nt.gov.au/policies/student-enrolment>

Enhanced income management referral policy – <https://education.nt.gov.au/policies/student-enrolment>

Enrolment and attendance birth to year 12 policy – <https://education.nt.gov.au/policies/student-enrolment>

Enrolment and attendance policy suite definitions – <https://education.nt.gov.au/policies/student-enrolment>

Enrolment procedures – <https://education.nt.gov.au/policies/student-enrolment/enrolment>

Enrolment in eligible options – <https://education.nt.gov.au/policies/student-enrolment/enrolment>

Prosecution policy and procedure – <https://elearn.ntschoools.net/policies/5194>

Risk management policy and framework – <https://elearn.ntschoools.net/policies/4123>

6.3. Resources

Engagement and enforcement actions flowchart – <https://elearn.ntschoools.net/policies/5194>

Evidentiary certificate by Authorised person – <https://elearn.ntschoools.net/policies/5194>

Evidentiary certificate by school Principal – <https://elearn.ntschoools.net/policies/5194>

Prosecution referral Form P1 – <https://elearn.ntschoools.net/policies/5194>

Penalty unit webpage - <https://agd.nt.gov.au/attorney-general-and-justice/units-and-amounts/penalty-units>

SAEPS Internal checklist for prosecution referral – <https://elearn.ntschoools.net/media/file/25775>

Acronyms	Full form
CE	Chief Executive
Cth	Commonwealth
eIM	Enhanced income management
NT	Northern Territory
SAEPS	Student Attendance and Engagement Programs and Services
TRM	Territory Records Manager

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2	May 2023	Student Engagement Programs and Services	Template and information updated
3	August 2024	Student Engagement Programs and Services	Terminology update from Passive Form to Intensive Support Roll
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