

Appendix 6 – Key Legislation and Policy on School Attendance

Key Legislation and Policy:

- Education Act 1990
 - http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/nsw/consol_act/ea1990104/ (Part 5)
- School Attendance Policy (PD-2005-0259-V07)
 - <https://education.nsw.gov.au/policy-library/policies/pd-2005-0259>
- Exemption from School Procedures
 - https://education.nsw.gov.au/content/dam/main-education/policy-library/associated-documents/exempt_gui.pdf

Extracts provided for reference.

Education Act 1990

21B COMPULSORY SCHOOL-AGE

(1) For the purposes of this Act, a child is of compulsory school-age if the child is of or above the age of 6 years and below the minimum school leaving age.

(2) The minimum school leaving age is--

(a) the age at which the child completes Year 10 of secondary education (subject to participation required by subsection (3)), or

(b) the age of 17 years,

whichever first occurs.

(3) A child who completes Year 10 of secondary education but who is below the age of 17 years is of compulsory school-age unless the child participates on a full-time basis in--

(a) approved education or training, or

(b) if the child is of or above the age of 15 years--paid work or a combination of approved education or training and paid work.

(4) A child ceasing to be of [compulsory school-age](#) because of that participation does not revert to being of [compulsory school-age](#) because of a cessation in participation for any reason so long as the interruption in participation does not exceed a total period of 3 months in any 12-month period or such other period approved by the Minister.

(5) The completion of Year 10 of secondary education is--

(a) the completion of Year 10 of secondary education in this State (whether by [school](#) education or [home schooling](#)), or

(b) the completion of a course provided by the TAFE Commission that is approved by the Minister as the equivalent of Year 10 of secondary education in this State, or

(c) the completion, outside of this State, of the equivalent of Year 10 of secondary education in this State, or

(d) the completion of education in any special circumstances approved by the Minister.

(6) Participation in approved education or training is participation in any of the following--

(a) a higher education course within the meaning of the [Higher Education Act 2001](#),

(b) a VET accredited course within the meaning of the [National Vocational Education and Training Regulator Act 2011](#) of the Commonwealth,

(c) an apprenticeship or traineeship within the meaning of the [Apprenticeship and Traineeship Act 2001](#),

(d) any other education or training approved by the Minister.

(7) The regulations may prescribe rules and criteria that are to be applied for the purposes of this section in determining--

(a) whether a child has completed Year 10, or

(b) whether a child is participating in paid work, or

(c) whether a child is participating in approved education or training, or

(d) whether such participation is on a full-time basis.

Subject to the regulations, participation on a full-time basis in paid work is participation for an average of 25 hours per week.

22 COMPULSORY SCHOOLING--DUTY OF PARENTS

(1) It is the duty of the [parent](#) of a child of [compulsory school-age](#) to cause the child--

(a) to be enrolled at, and to attend, a [government school](#) or a [registered non-government school](#), or

(b) to be registered for [home schooling](#) under Part 7 and to receive instruction in accordance with the conditions to which the registration is subject.

(2) That duty is satisfied if the child receives instruction of a kind referred to in [section 23](#) (2).

(3) [Schooling](#) required by this section is referred to in this Act as "**compulsory schooling**".

School Attendance Policy

1. Policy statement

1. Section 22 of the [Education Act \(1990\)External link](#) states that it is the duty of the parent of a child of [compulsory school-ageExternal link](#) to cause the child:
 - (a) to be enrolled at, and to attend, a government school or a registered non-government school, or
 - (b) to be registered for home schooling with the NSW Education Standards Authority (NESA) and to receive instruction in accordance with the conditions to which the registration is subject.
2. All students who are enrolled at school, regardless of their age, are expected to attend that school whenever instruction is provided.
3. Section 24 of the Act requires principals to maintain an attendance register (roll) in a form approved by the Minister. Attendance registers must be available for inspection during school hours by a Board Inspector or by any authorised person.

4. Responsibilities and delegations

4.2 Principals

- 4.2.8 must ensure that any matter relating to school attendance where safety, welfare or wellbeing concerns arise for a student:
 - consideration is given to the requirements of the [Protecting and Supporting Children and Young People Policy](#)
 - all required reports are made to the Community Services Child Protection Helpline or contact made with the Child Wellbeing unit (as required by the [Mandatory Reporter GuideExternal link](#)).
- 4.2.9 have the authority to:
 - grant sick leave to students whose absences are satisfactorily explained as being due to illness
 - accept other explanations for absence and record the absence as 'L'
 - decline to accept an explanation for absence and record the absence as unjustified
 - grant an exemption from school attendance for periods totalling up to 100 days in a 12-month period for any one student provided certain conditions are met (see the [Exemption from School - Procedures](#))

- grant part-day exemptions from school for periods totalling up to 100 days in a 12-month period (see the [Exemption from School - Procedures](#))
- grant exemption from enrolment for students who have completed Year 9 and have the required approval to complete their education in special circumstances through an apprenticeship or traineeship (see the [Exemption from School - Procedures](#)).

Exemption from School Procedures

2.1. Reasons for granting full day exemptions from attendance at school

2.1.1. Principals, Directors, Public Schools and Executive Directors (Schools) may grant exemptions due to:

- exceptional circumstances (including the health of the student where sick leave or alternative enrolment is not appropriate)
- the child being prevented from attending school because of a direction under the Public Health Act 2010. (The parent is not required to complete an application for exemption)
- employment in the entertainment industry – refer to children's employment
- participation in elite arts or elite sporting events

For any other matter not covered by the above points, the delegate must consult the next most senior delegate in their reporting line.