



Australian Government

Department of Education, Skills and Employment

## 2021 Statement of Intent

COVID-19 and the *Australian Education Act 2013*

### Purpose of this statement

This statement signals the Australian Government's approach to non-compliance with conditions under the *Australian Education Act 2013* (the Act) and the *Australian Education Regulation 2013* (the Regulation) that occurs due to the COVID-19 pandemic. It is an extension of the Statement of Intent released in 2020.

The statement recognises that the COVID-19 pandemic has created an exceptional set of circumstances which has had, and may continue to have, an impact on the delivery of school education in 2021. This may affect the ability of states and territories and approved authorities to meet their obligations under the Act and the Regulation. Given the broader budget and service delivery pressures on states and territories and approved authorities, it is appropriate that the Australian Government take the changed context into account in applying its risk-based approach to provision of school education-related information and data, and assurance and compliance activities over this period.

This statement relates to compliance by states and territories and approved authorities with relevant conditions under the Act and the Regulation for the 2021 calendar year.

### Legislation and subordinate legislation

The Act provides for Commonwealth financial assistance for schools. The financial assistance is provided to states under section 96 of the Constitution, and to territories under section 122 of the Constitution. The Act imposes requirements on states and territories as conditions of this financial assistance, including requirements to comply with intergovernmental agreements on school education, such as the National School Reform Agreement, and to implement nationally-agreed policy initiatives on school education. Each school has an approved authority, which is approved by the Minister.

- For a government school located in a state or territory, the approved authority is the State or Territory Government.
- For a non-government school, the approved authority is a body corporate that is approved by the Minister for the school.

The Regulation provides more detail to support the operation of the Act. It outlines the financial accountability and other conditions that are required in order to receive funding under the Act.

The Act and Regulation impose conditions that, during the period of the COVID-19 pandemic, the Australian Government recognises may be difficult for states and territories and approved authorities to meet in 2021, for example:

- implementation of National Policy Initiatives set out in the National School Reform Agreement and jurisdiction-specific initiatives and programs set out in State and Territory bilateral agreements (s 22 of the Act);
- State and territory contribution amount requirements (s 22A of the Act, read together with the bilateral agreements);

- implementation of the national curriculum, A to E reporting, and assessment of students against national standards (s 77 of the Act, Div 3 of Pt 5 of the Regulation); and
- provision of school education-related information and data to the Commonwealth Department of Education, Skills and Employment and ACARA (s 77 of the Act, Div 3 of Pt 5 of the Regulation).

### **Regulatory approach**

The Australian Government will not take compliance action under the Act where a state or territory or an approved authority has acted in good faith and is unable to meet its funding conditions under the Act and Regulations for, or in relation to, 2021, including those set out in bilateral agreements, as a direct result of the COVID-19 pandemic.

However, not all funding conditions under the Act and Regulations will be adversely affected by the COVID-19 pandemic, and some conditions may only be affected in minor ways. The above regulatory approach is predicated on the states and territories and approved authorities acting in good faith, which includes, for example:

- endeavouring to comply with funding conditions as far as practicable;
- promptly identifying issues in complying with particular conditions; and
- working with the Australian Government to identify and implement mitigation strategies, such as alternative means of compliance, or changes to processes, timeframes and milestones.

### **Further information**

For further information on the Statement of Intent, or to request advice on specific circumstances, Approved Authority Representatives should contact the Department of Education, Skills and Employment on 1800 677 027 or via email at [schools@dese.gov.au](mailto:schools@dese.gov.au).