

Queensland



**EDUCATION (GENERAL
PROVISIONS) AMENDMENT
BILL 1996**



EDUCATION (GENERAL PROVISIONS) AMENDMENT BILL 1996

TABLE OF PROVISIONS

Section	Page
1 Short title	4
2 Commencement	4
3 Act amended	4
4 Amendment of s 3 (Interpretation)	4
5 Omission of ss 24–27	5
6 Insertion of new pt 3A	5
PART 3A—GOOD ORDER AND MANAGEMENT OF STATE EDUCATIONAL INSTITUTIONS	
<i>Division 1—Behaviour management plans</i>	
30A Principal is responsible for behaviour management plans	5
<i>Division 2—Suspension of students</i>	
30B Grounds for suspension of student	6
30C Suspension of student	6
30D Placement of certain students in alternative education program . . .	7
30E Submissions against suspensions for more than 5 school days	7
30F Dealing with submissions against suspensions	7
<i>Division 3—Exclusion of students</i>	
30G Grounds for exclusion of student	8
30H Suspension pending dealing with recommendation for exclusion . .	8
30I Submissions against suspension and recommendation for exclusion	9
30J Exclusion of student	10
30K Submissions against exclusions	11
30L Dealing with submissions against exclusions	11

Education (General Provisions) Amendment

Division 4—Cancellation of enrolment of students above the age of compulsory attendance

30M	Grounds for cancelling enrolment of student more than the age of compulsory attendance	11
30N	Cancellation of student's enrolment	12
30O	Submissions against cancellation of enrolment	12
30P	Dealing with submissions against cancellations of enrolment	13

Division 5—Miscellaneous provisions about suspensions, exclusions and cancellations

30Q	Definition for division	13
30R	Copy of notices under this part to be given to parent etc.	14
30S	Submissions about suspensions, exclusions and cancellation	14
30T	Time notices take effect	14

Division 6—Offences

	30U	Wilful disturbance	14
	30V	Trespass	15
7		Amendment of s 58 (Dispensation from compliance with compulsory enrolment and attendance provisions)	15
8		Replacement of s 77A	16
	77A	Delegation by chief executive	16
9		Insertion of new s 80	17
	80	Transitional provision about existing delegations	17

1996

A BILL

FOR

An Act to amend the *Education (General Provisions) Act 1989*

The Parliament of Queensland enacts—

1

Short title

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Clause **1.** This Act may be cited as the *Education (General Provisions) Amendment Act 1996*.

3

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Commencement

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Clause **2.** This Act commences on a day to be fixed by proclamation.

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Act amended

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Clause **3.** This Act amends the *Education (General Provisions) Act 1989*.

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Amendment of s 3 (Interpretation)

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Clause **4.(1)** Section 3(1), definitions “**executive director**” and “**principal**”—
omit.

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(2) Section 3(1)—

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insert—

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‘ “**cancel**”, the enrolment at a State educational institution of a student who
is more than the age of compulsory attendance, means prohibit the
student from attending the institution, whether for a stated period or
permanently.

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“**exclude**”, a student, means prohibit the student from attending a State
educational institution or State educational institutions for a stated
period or permanently.

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“**excluded person**” see section 30J.

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“**notice recommending exclusion**” see section 30H(3).

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“**person under a cancellation**” see section 30N.

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“**principal**” means the person in charge of a State educational institution.

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Education (General Provisions) Amendment

“reasonably satisfied” means satisfied on reasonable grounds. 1

“suspend”, a student, means prohibit the student from attending a State 2
educational institution for a stated number of school days. 3

“teacher” means a person who— 4

(a) is registered as a teacher, or who has provisional registration as a 5
teacher, under the *Education (Teacher Registration) Act 1988*; 6
and 7

(b) is a member of the educational staff of a State educational 8
institution.’. 9

Omission of ss 24–27 10

Clause 5. Sections 24 to 27— 11
omit. 12

Insertion of new pt 3A 13

Clause 6. After section 30— 14
insert— 15

**‘PART 3A—GOOD ORDER AND MANAGEMENT OF 16
STATE EDUCATIONAL INSTITUTIONS 17**

‘Division 1—Behaviour management plans 18

‘Principal is responsible for behaviour management plans 19

‘30A.(1) The principal of each State educational institution must ensure a 20
process is put in place for developing a behaviour management plan for the 21
institution. 22

‘(2) The plan for an institution must— 23

(a) promote a supportive environment at the institution so all 24
members of the institution’s community may work together in 25
developing acceptable standards of behaviour to create a caring, 26

Education (General Provisions) Amendment

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Division 2—Suspension of students

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‘Grounds for suspension of student

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‘30B. Each of the following is a ground for suspending a student from a State educational institution—

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(a) disobedience by the student;

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(b) misconduct of the student;

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(c) other conduct of the student that is prejudicial to the good order and management of the State educational institution or State educational institutions.

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‘Suspension of student

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‘30C.(1) This section applies if the principal of a State educational institution is reasonably satisfied grounds exist to suspend a student from the institution.

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‘(2) The principal may suspend the student from the institution—

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(a) for not more than 5 school days; or

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Education (General Provisions) Amendment

(b) if the principal is satisfied the behaviour was so serious that the suspension should be for longer than 5 school days—for not more than 20 school days.	1 2 3
‘(3) The principal must give the student a written notice stating—	4
(a) the student is suspended and the reason for the suspension; and	5
(b) the period of the suspension.	6
‘(4) If the suspension is for more than 5 school days, the notice must also state—	7 8
(a) the student may make a submission against the suspension to the principal’s supervisor; and	9 10
(b) the title, name and address of the principal’s supervisor; and	11
(c) the way in which the submission may be made.	12
 ‘Placement of certain students in alternative education program	 13
‘30D. If a student is suspended for more than 5 school days, the principal must coordinate arrangements for placing the student in an alternative education program that allows the student to continue with the student’s education.	14 15 16 17
 ‘Submissions against suspensions for more than 5 school days	 18
‘30E.(1) A student suspended for more than 5 school days may make a submission against the suspension.	19 20
‘(2) The submission must be made to the principal’s supervisor and state fully the grounds for the submission and the facts relied on.	21 22
 ‘Dealing with submissions against suspensions	 23
‘30F.(1) If a submission is made to a principal’s supervisor, the supervisor must promptly consider the decision and the submission and—	24 25
(a) affirm the decision; or	26
(b) vary the decision; or	27
(c) set aside the decision and make a new decision in substitution of	28

Education (General Provisions) Amendment

the decision to suspend.

‘(2) After the supervisor has decided to affirm, vary or set aside the principal’s decision to suspend, the supervisor must—

- (a) promptly tell the student and principal about the decision; and
- (b) within 7 days after telling the student about the decision—give the student and the principal written notice of the decision and the reasons.

Division 3—Exclusion of students

‘Grounds for exclusion of student

‘30G. The grounds for excluding a student from a State educational institution or State educational institutions are—

- (a) any of the following—
 - (i) disobedience by the student;
 - (ii) misconduct of the student;
 - (iii) other conduct of the student that is prejudicial to the good order and management of the State educational institution or State educational institutions; and
- (b) the student’s disobedience, misconduct or other conduct is so serious that suspension of the student is inadequate to deal with the behaviour.

‘Suspension pending dealing with recommendation for exclusion

‘30H.(1) This section applies if the principal of a State educational institution is reasonably satisfied grounds exist to exclude a student from the institution or State educational institutions.

‘(2) The principal may—

- (a) recommend to the principal’s supervisor that the student be excluded from the institution or stated State educational institutions; and

Education (General Provisions) Amendment

- (b) suspend the student from the institution pending the supervisor's decision about the recommendation. 1
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- ‘(3) The principal must give the student a written notice (the “notice recommending exclusion”) stating—** 3
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- (a) the principal has recommended to the principal's supervisor that the student be excluded from the institution and the reason for the recommendation; and 5
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- (b) the student is suspended pending the supervisor's decision about the recommendation; and 8
9
- (c) the student may make a submission to the principal's supervisor against the suspension and recommendation for exclusion no later than 5 school days after the day the notice is given to the student or the longer period allowed by the supervisor under section 30I(3); and 10
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- (d) the title, name and address of the principal's supervisor; and 15
- (e) the way in which the submission may be made. 16
- ‘(4) The principal must promptly give a copy of the notice to the principal's supervisor.** 17
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- ‘Submissions against suspension and recommendation for exclusion** 19
- ‘30I.(1) A student given a notice recommending exclusion may make a submission against the suspension and recommendation for exclusion.** 20
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- ‘(2) The submission must—** 22
- (a) be made to the principal's supervisor no later than 5 school days after the day the notice is given to the student; and 23
24
- (b) state fully the grounds for the submission and the facts relied on. 25
- ‘(3) If, no later than 5 school days after the day the notice is given to the student, the supervisor is contacted by a person who may make a submission in relation to the notice asking for a longer period within which to make the submission, the supervisor may, by written notice, state a longer period allowed for submissions.** 26
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‘Exclusion of student**‘30J.(1) If—**

- (a) a principal of a State educational institution, under section 30H(2), recommended to the principal’s supervisor that a student at the institution be excluded from the institution or State educational institutions for a period or permanently and gave the student a notice recommending exclusion; and
- (b) 5 school days after the day the student was given the notice, or the longer period allowed by the supervisor under section 30I(3), have expired and the supervisor—
 - (i) has not, before the expiry, received a submission against the suspension and recommendation for exclusion; or
 - (ii) has received a submission before the expiry and considered the submission; and
- (c) the supervisor is reasonably satisfied grounds exist to exclude the student from the institution or State educational institutions;

the supervisor may, no later than 20 school days after the day the notice was given to the student, exclude the student (the **“excluded person”**) from the institution or State educational institutions for a period or permanently.

‘(2) Also, even though a principal of a State educational institution did not recommend to the principal’s supervisor that a student at the institution be excluded from the institution or State educational institutions, the supervisor may exclude the student (also the **“excluded person”**) from the institution or State educational institutions for a period or permanently, if the supervisor is reasonably satisfied grounds exist to exclude the student from the institution or State educational institutions.

‘(3) A supervisor must give an excluded person a written notice stating—

- (a) the person is excluded from the stated institution or institutions and the reason for the exclusion; and
- (b) the period of the exclusion; and
- (c) the person may make a submission to the chief executive against the exclusion; and

Education (General Provisions) Amendment

(d) the title, name and address of the chief executive; and	1
(e) the way in which the submission may be made.	2
‘Submissions against exclusions	3
‘30K.(1) The excluded person may make a submission against the exclusion.	4 5
‘(2) The submission must be made to the chief executive and state fully the grounds for the submission and the facts relied on.	6 7
‘Dealing with submissions against exclusions	8
‘30L.(1) If a submission is made to the chief executive, the chief executive must promptly consider the decision and the submission and—	9 10
(a) affirm the decision; or	11
(b) vary the decision; or	12
(c) set aside the decision and make a new decision in substitution of the decision to exclude.	13 14
‘(2) After the chief executive has decided to affirm, vary or set aside the decision, the chief executive must—	15 16
(a) promptly tell the excluded person of the chief executive’s decision; and	17 18
(b) within 7 days after telling the excluded person about the decision—give written notice to the excluded person, and the relevant principal and supervisor, about the chief executive’s decision and the reasons for the decision.	19 20 21 22
<i>‘Division 4—Cancellation of enrolment of students above the age of compulsory attendance</i>	23 24
‘Grounds for cancelling enrolment of student more than the age of compulsory attendance	25 26
‘30M.(1) The grounds for cancelling the enrolment at a State educational	27

institution of a student who is more than the age of compulsory attendance are— 1
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- (a) the student's persistently disruptive behaviour is adversely affecting the education of other students at the institution; or 3
4
- (b) the student's behaviour amounts to a refusal to participate in the program of instruction provided at the institution. 5
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‘(2) The enrolment of a student of the age of compulsory attendance may not be cancelled under this division. 7
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‘Cancellation of student's enrolment 9

‘30N.(1) This section applies if the principal of a State educational institution is reasonably satisfied grounds exist to cancel the enrolment at the institution of a student who is more than the age of compulsory attendance. 10
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‘(2) The principal may cancel the enrolment at the institution of the student (the “**person under a cancellation**”) for a period or permanently. 14
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‘(3) The principal must give the person under the cancellation a written notice stating— 16
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- (a) the person's enrolment at the institution is cancelled and the reason for the cancellation; and 18
19
- (b) the period of the cancellation; and 20
- (c) the person may make a submission against the cancellation to the principal's supervisor; and 21
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- (d) the title, name and address of the principal's supervisor; and 23
- (e) the way in which the submission may be made. 24

‘(4) The principal must also give a copy of the notice to the principal's supervisor. 25
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‘Submissions against cancellation of enrolment 27

‘30O.(1) The person under the cancellation may make a submission against the cancellation. 28
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‘(2) The submission must be made to the principal’s supervisor and state fully the grounds for the submission and the facts relied on.	1 2
‘Dealing with submissions against cancellations of enrolment	3
‘30P.(1) If a submission is made to a principal’s supervisor, the supervisor must promptly consider the decision and the submission and—	4 5
(a) affirm the decision; or	6
(b) vary the decision; or	7
(c) set aside the decision and make a new decision in substitution of the decision to cancel the student’s enrolment.	8 9
‘(2) After the supervisor has decided to affirm, vary or set aside the decision, the supervisor must—	10 11
(a) promptly tell the person under the cancellation of the decision; and	12 13
(b) within 7 days after telling the person about the decision—give written notice to the person, and the principal who cancelled the person’s enrolment, about the decision and the reasons for the decision.	14 15 16 17
‘Division 5— Miscellaneous provisions about suspensions, exclusions and cancellations	18 19
‘Definition for division	20
‘30Q. In this division—	21
“student” means—	22
(a) a student, including a suspended student; or	23
(b) an excluded person; or	24
(c) a person under a cancellation.	25

‘Copy of notices under this part to be given to parent etc.

‘30R.(1) If a person is required, under this part, to give a notice to a student and the student is under 18, the person must promptly give a copy of the notice to—

(a) if a parent has care and control of the student—the parent; or

(b) if another adult has care and control of the student—the adult.

‘(2) In deciding to whom a notice must be given under subsection (1), the person required to give the notice may rely on the relevant State educational institution’s records about—

(a) if a parent, or another adult, has care and control of the student; and

(b) the current residential address of the parent or adult.

‘Submissions about suspensions, exclusions and cancellation

‘30S. If, under this part, a student may make a submission in relation to a suspension, suspension and recommendation for exclusion, exclusion or cancellation and the student is under 18, a submission may also be made by a parent, or an adult who has the care and control, of the student.

‘Time notices take effect

‘30T. A notice given to a student under this part takes effect on the day the notice is given to the student or a later day stated in the notice.

‘Division 6—Offences**‘Wilful disturbance**

‘30U.(1) A person must not wilfully disturb the good order or management of a State educational institution.

Maximum penalty—10 penalty units.

‘(2) A person must not insult an officer of a State educational institution in the presence or hearing of a student of the institution, who is, at the time

Education (General Provisions) Amendment

in question—	1
(a) in or about the institution; or	2
(b) assembled with others for educational purposes at or in any place.	3
Maximum penalty—10 penalty units.	4
‘(3) A person must not be convicted of an offence against this section if the person was, at the time in question, a student at the State educational institution.	5 6 7
‘(4) In subsection (2)—	8
“insult” includes abuse.	9
“officer of a State educational institution” includes a teacher, teacher on probation, teacher in training, staff member or person employed in any capacity at the institution.	10 11 12
‘Trespass	13
‘30V. A person must not be on the premises of a State educational institution unless the person has lawful authority or a reasonable excuse for being on the premises.	14 15 16
Maximum penalty—10 penalty units.’.	17
Amendment of s 58 (Dispensation from compliance with compulsory enrolment and attendance provisions)	18 19
Clause 7.(1) Section 58(2)(d)—	20
omit, insert—	21
‘(d) that the child’s home is not less than 16 km from the nearest State educational institution with the required year level for the child and—	22 23 24
(i) is not less than 4.5 km from a school transport service to a State educational institution with the required year level for the child; or	25 26 27
(ii) is less than 4.5 km from a school transport service to a State educational institution with the required year level for the	28 29

Education (General Provisions) Amendment

child but—

- (A) is not less than 56 km from the institution using the route travelled by the school transport service; or
- (B) is not less than 3 hours travelling time per day using the school transport service;’.

(2) Section 58—

insert—

‘**(5)** Distance from a child’s home to the nearest State educational institution with the required year level for the child must be measured—

- (a) if there is no school transport service to the institution—by the shortest practicable route; or
- (b) if there is a school transport service to the institution—by the total of the distance from the child’s home to the school transport access point and the distance travelled by the school transport service from that point to the institution.

‘**(6)** In this section—

“school transport service” means—

- (a) a school transport service approved by the chief executive of the department that deals with matters arising under the *Transport Operations (Passenger Transport) Act 1994*; or
- (b) a public transport service.’.

Replacement of s 77A

Clause **8.(1) Section 77A—**

omit, insert—

‘Delegation by chief executive

‘**77A.(1)** The chief executive may delegate the chief executive’s powers under this Act, other than part 3A,¹ to an appropriately qualified officer of the department.

¹ Part 3A (Good order and management of State educational institutions)

Education (General Provisions) Amendment

‘(2) In this section—

“**appropriately qualified**” includes having the qualifications, experience or standing appropriate to exercise the power.

Example of ‘standing’—

A person’s classification level in the department.’.

Insertion of new s 80

Clause 9. After section 79—
insert—

‘Transitional provision about existing delegations

‘80.(1) This section applies to a delegation—

(a) made under section 77A² before the commencement of this section; and

(b) in force immediately before the commencement.

‘(2) The delegation continues to have effect for 1 year after the commencement, unless it is revoked before the year ends.

‘(3) This section expires 1 year after the commencement.’.

² Section 77A (Delegation by chief executive)