
Policy Title: REVIEW OF DECISIONS
Published: 2005
Identifier: ROD200604
Legislation: *Education Act 2004*
Administrative Appeals Tribunal Act 1989

1. POLICY STATEMENT

- 1.1 The *Education Act 2004* (the Act) provides for a number of reviewable decisions.
- 1.2 Reviewable decisions are specific decisions of the Minister or the Director- General made under the relevant provisions of any piece of legislation.
- 1.3 The persons identified in the Act who are to be notified of the decision have the right to seek a review of the decision.

2. RATIONALE

- 2.1 These procedures and guidelines aim to:
- clarify the decisions made by either the Minister or the Director- General which are reviewable
 - outline the processes for internal and external review.
- 2.2 The processes for both internal and external review should be clearly outlined to the applicant.

3. DEFINITIONS

Applicant:

The person whose interests are affected by any reviewable decision listed in schedule 1 of the *Education Act 2004*

Director- General:

The person engaged under division 3.4 of the *Public Sector Management Act 1994* as the Director- General of the Education and Training Directorate.

Child:

A person who is under the age of 18.

Directorate:

The Education and Training Directorate.

Internal reviewer:

A person other than the original decision maker who is empowered to review the original decision.

Parent:

A person having parental responsibility for a child under the *Children and Young Persons Act 1999*, including a carer appointed under that Act.

Registrar:

The Registrar of Non-government Schools appointed under section 77 of the *Education Act 2004*.

Reviewable decision:

A decision of either the Minister or the chief executive made under the relevant provisions of the *Education Act 2004*.

Student:

A person who is enrolled as a student in a school in accordance with either section 33 or section 100 of the *Education Act 2004*.

Proprietor of a school:

Person or legal entity which controls the legal interest in the Non - government school.

4. PROCEDURES

4.1 Reviewable Decisions

4.1.1 **Schedule 1 of the Act** lists the following decisions made by the Minister as reviewable:

Reviewable decision	Person To Be Notified
<i>Minister refuses to give in-principle approval for the proposed registration on a non-government school</i>	<i>applicant seeking in-principle approval</i>
<i>Minister directs the registrar to refuse to provisionally register a non-government school</i>	<i>applicant seeking provisional registration of the school</i>
<i>Minister directs the registrar to register a non-government school for a shorter period than the period applied for</i>	<i>proprietor of the school</i>
<i>Minister directs the registrar to refuse to register a non-government school</i>	
<i>Minister directs the registrar to refuse to register a non-government school at an additional educational level</i>	
<i>Minister directs the registrar to cancel provisional registration or registration of a non-government school</i>	
<i>Minister directs the registrar to renew registration of a non-government school for a shorter period than the period applied for</i>	
<i>Minister directs the registrar to refuse to renew registration of a non-government school</i>	

4.1.2 The Minister may delegate responsibility for some or all reviewable decisions made under the relevant provisions of the Act.

4.1.3 **Schedule 1 of the Act** lists the following decisions made by the Director- General as reviewable:

Reviewable Decision	Person To Be Notified
<i>Director- General refuses to issue exemption certificate on application</i>	<i>parents of the child</i>
<i>Director- General revokes an exemption certificate</i>	
<i>Director- General suspends, excludes or transfers a child</i>	
<i>Director- General refuses to register a child for home education on application</i>	
<i>Director- General registers a child for home education for a shorter period than the period applied for</i>	
<i>Director- General cancels registration of a child for home education</i>	
<i>Director- General refuses to renew registration of a child for home education</i>	
<i>Director- General renews registration of a child for home education for a shorter period than the period applied for</i>	

4.1.4 The Director- General may delegate responsibility for some or all reviewable decisions made under the relevant provisions of the Act.

4.1.5 A reviewable decision made personally by the Minister or Director- General is not subject to internal review (refer to section 142 of the Act).

4.2 Notice of Decisions to be given to Affected People

4.2.1 The person to be notified under the relevant provisions of the Act must be notified in writing if (refer to Section 142 of the Act):

- the Minister makes a reviewable decision
- the chief executive makes a reviewable decision

4.2.2 The notice must be in accordance with the requirements of the code of practice in force under the Administrative Appeals Tribunal Act. This code of practice is available from:

ACT Administrative Appeals Tribunal
GPO Box 371
CANBERRA 2601
(Phone: 6217 4261)

4.2.3 It is also available on the Legislation Register on the web at:

<http://www.legislation.act.gov.au/di/1994-148/current/pdf/1994-148.pdf>

4.3 Informal Resolution

- 4.3.1 Managers and staff are encouraged in the first instance, to seek informal resolution of concerns which are raised.
- 4.3.2 An applicant may bring a support person when discussing their application seeking a review of the decision. The role of a support person needs to be clarified by both parties.
- 4.3.3 If an issue cannot be resolved informally, it should be dealt with on a formal level as an internal review of the decision made.

4.4 Internal Review of Decisions (refer to Sections 142 through 144 of the Act)

- 4.4.1 Applications for an internal review of a decision may be made on-line by filling out the Internal Review Lodgement Form (copy at appendix 1).
- 4.4.2 The internal reviewer should document the details of the issue on the Internal Review Record Form (copy at appendix 2).
- 4.4.3 Applications for review should be assessed in a non-judgemental and courteous manner. Applicants should be reassured that the lodgement of a request for review of a decision will not lead to discrimination, or harassment of a child at school.
- 4.4.4 As per Section 144(1) of the Act, the internal reviewer must review the reviewable decision, and confirm, vary or revoke the decision, within 28 days after the decision-maker receives the application for internal review of the decision.
- 4.4.5 After reviewing the processes and determining if the review is to be dismissed or upheld, the internal reviewer may recommend:
 - upholding the original decision; or
 - reversing the original decision; or
 - making a different decision.
- 4.4.6 As per Section 144(2) of the Act, if the decision is not varied or revoked within the 28 days, the decision is taken to have been confirmed by the internal reviewer.
- 4.4.7 Written notice of the internal reviewer's decision, as required by Section 144(3) of the Act, must be given to the applicant as soon as practicable after reviewing the decision.

4.5 Rights of External Appeal – Review by the Administrative Appeals Tribunal of Certain Decisions

- 4.5.1 If the applicant feels that the issue has not been resolved satisfactorily, then an appeal can be lodged with the Administrative Appeals Tribunal (AAT) (refer to Section 145 of the Act).

- 4.5.2 The AAT is a statutory tribunal that conducts external reviews of administrative decisions made on behalf of government departments and agencies.

Information about the process for application and the application forms are available on the AAT website at:

<http://www.courts.act.gov.au/magistrates/index.html>

Alternative contact details are:

Ph: (02) 6217 4261 or (02) 6217 4279

Fax: (02) 6217 4505

Email: magistrates.court@act.gov.au

Address: 4 Knowles Place, Canberra ACT 2601.

By Post: GPO Box 370 CANBERRA CITY ACT 2601

Contact: Information, Communications and Governance
Phone: 6205 9151

4.6 Complaints

- 4.6.1 Complaints Officers dealing with appeals or requests for review of decisions should identify complaints against the Directorate, which are included in the same correspondence as the appeal or request for review, but which fall outside its scope. This information must be referred to the Community Liaison section. Appellants will be kept informed of any referrals to the Community Liaison section.

5. POLICY OWNER

Director, Information, Communications and Governance.

6. RELATED POLICIES

Enrolment and Attendance: Government Schools

Enrolment and Attendance: Non-government Schools

Home Education

Suspension, Exclusion or Transfer: Government schools

Non-government School Registration Procedures

Appendix One



Confidential
Internal Review
Lodgement Form

Should you wish to have a decision reviewed, you are encouraged to contact the Directorate to discuss your concerns. If you wish to submit your concerns in writing, you may use this form to formally lodge your request for an internal review of the decision.

Name:

Address:

..... **Post Code:**

Contact Phone Number/s:

Email address:

Details of the decision:

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On what grounds are you seeking the internal review?

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What outcomes do you seek? (please tick appropriate box)

Decision to be revoked

Decision to be varied (please specify)

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Signature: **Date:**

The Directorate is collecting this information to assist us in handling your review. We will keep your personal information confidential as far as is possible. However there may be some circumstances when your personal information will need to be provided to others as part of the process of investigating your matter. Personal information may also be released under the provisions of the *Privacy Act 1988* and may be subject to release under the *Freedom of Information Act 1989*. We will keep this form as part of our Directorate records. We will keep information about your review, but not about you, on a database for statistical purposes. The Directorate collects, manages, uses and discloses personal information under the requirements of the *Privacy Act 1988*.

Please forward completed form to:

Assistant Manager
Information, Communications and Governance Branch
Education and Training Directorate
PO Box 158
CANBERRA ACT 2601

Recommendation

- original decision upheld
- original decision revoked
- variation of decision:

Details of variation:

Reasons for recommendation:

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Internal Reviewer’s signature: **Date:**

Written notice of this decision sent to applicant **Date:**
(IN ACCORDANCE WITH S144 (3) OF THE EDUCATION ACT 2004)

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