



Australian Education Amendment (2016 Measures No. 2) Regulation 2016

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 28 September 2016

Peter Cosgrove
Governor-General

By His Excellency's Command

Simon Birmingham
Minister for Education and Training

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1 Name

This is the *Australian Education Amendment (2016 Measures No. 2) Regulation 2016*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	30 September 2016

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Australian Education Act 2013*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Australian Education Regulation 2013

1 At the end of Division 3 of Part 4

Add:

Subdivision C—Students who are persons with a disability

25H Circumstances

- (1) For the purposes of subsection 69A(1) of the Act, the circumstances for a school for a relevant year are:
 - (a) unless paragraph (b) applies, the approved authority for the school has given the Department information in relation to one or more students who:
 - (i) are receiving primary education or secondary education at the school on the school's census day for the year immediately prior to the relevant year; and
 - (ii) are persons with a disability at the school for the year immediately prior to the relevant year; and
 - (iii) are persons about whom the information must be provided, as specified in the Ministerial Council disability guidelines for the year immediately prior to the relevant year; and
 - (b) if the approved authority for the school is the approved authority for more than one school—the approved authority for the schools has given the Department information in relation to one or more students who:
 - (i) are receiving primary education or secondary education at any of the schools on the relevant school's census day for the year immediately prior to the relevant year; and
 - (ii) are persons with a disability at any of the schools for the year immediately prior to the relevant year; and
 - (iii) are persons about whom the information must be provided, as specified in the Ministerial Council disability guidelines for the year immediately prior to the relevant year.

- (2) In this Subdivision:

disability has the same meaning as in the *Disability Discrimination Act 1992*.

relevant year means each of 2016 and 2017.

25J Amounts payable

Total amount of funding for the relevant years

For the purposes of paragraph 69A(4)(a) of the Act, the total of the amounts determined by the Minister for the relevant years, taken together, in relation to the circumstances mentioned in section 25H, is \$118.248 million.

25K Matters that Minister may have regard to

- (1) For the purposes of paragraph 130(2)(b) of the Act, this section sets out matters that the Minister may have regard to in making a decision under subsection 69A(1) of the Act about the amount of financial assistance that is payable for a school for a relevant year in the circumstances mentioned in section 25H.
- (2) The matters are the following:
 - (a) information mentioned in subsection 58A(2) in relation to each student of a kind mentioned in subsection 58A(1) at the school;
 - (b) the Guidelines for Additional Funding for Students with a Disability, issued by the Department, as in force from time to time;
 - (c) if the school is a non-government school—a recommendation by the school’s non-government representative body relating to students of the school who are persons with a disability.

25L Purpose for which funding is spent or committed to be spent

- (1) For the purposes of paragraph 78(2)(a) of the Act, an approved authority for a school must spend, or commit to spend, financial assistance that is payable for the school under subsection 69A(1) of the Act in the circumstances mentioned in section 25H of this regulation:
 - (a) for the purpose of providing school education; and
 - (b) in accordance with any written directions of the Minister.
- (2) Subsections 29(2) and (3) have effect as if a reference in those subsections to subsection (1) included a reference to subsection (1) of this section.
- (3) For the purposes of paragraph (1)(b), the Minister may give written directions to an approved authority.
- (4) Financial assistance mentioned in subsection (1) must be spent, or committed to be spent:
 - (a) in the year in which the financial assistance is paid to the approved authority; or
 - (b) as otherwise directed by the Minister under paragraph (1)(b).
- (5) Any interest earned on financial assistance mentioned in subsection (1) must be spent, or committed to be spent, in the same way as the financial assistance.

2 Subparagraph 34(3)(a)(i)

Omit “section 29, 30 or 31 or Division 3 of Part 4”, substitute “section 25D, 25G, 25L, 29, 30 or 31”.

3 Subparagraph 34(3)(a)(iii)

Before “29(8)”, insert “25D(6), 25L(5),”.

4 After paragraph 35(1)(b)

Insert:

- (ba) for each school—the amount of financial assistance paid in accordance with the Act and allocated by the authority to the school because the

circumstances mentioned in section 25H applied in relation to the school for the year;

5 After paragraph 36(1)(f)

Insert:

- (fa) for an approved authority that is an approved system authority—the amount of financial assistance paid in accordance with the Act and allocated by the authority to a school because the circumstances mentioned in section 25A or 25H applied in relation to the school for the year;

6 In the appropriate position in Part 8

Insert:

69 Application provision for the *Australian Education Amendment (2016 Measures No. 2) Regulation 2016*

- (1) Subdivision C of Division 3 of Part 4, subparagraphs 34(3)(a)(i) and (iii), and paragraphs 35(1)(ba) and 36(1)(fa), as in force at the commencement time, apply in relation to 2016 and later years.
- (2) In this section:

commencement time means the start of the day that the *Australian Education Amendment (2016 Measures No. 2) Regulation 2016* commences.