



Western Australia

School Education Amendment Act 2024

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School Education Amendment Act 2024

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Western Australia

School Education Amendment Act 2024

No. 13 of 2024

An Act to amend the *School Education Act 1999*.

[Assented to 22 April 2024]

The Parliament of Western Australia enacts as follows:

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1. Short title

This is the *School Education Amendment Act 2024*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

3. Act amended

This Act amends the *School Education Act 1999*.

4. Part 3 Division 5 Subdivision 1 heading inserted

At the beginning of Part 3 Division 5 insert:

Subdivision 1 — Preliminary

5. Part 3 Division 5 Subdivision 2 heading inserted

After section 88 insert:

Subdivision 2 — Suspension and exclusion for breach of school discipline or disruptive behaviour

6. Section 89 replaced

Delete section 89 and insert:

89. Term used: breach of school discipline

In this Subdivision —

breach of school discipline means any act or omission that impairs the good order and proper management of the school.

7. Section 91 amended

In section 91 delete “Division” and insert:

Subdivision

Note: The heading to amended section 91 is to read:

Grounds for excluding student from school attendance

8. Section 92 amended

In section 92(1) delete “school,” and insert:

school then, subject to section 96F(2),

Note: The heading to amended section 92 is to read:

Procedure for excluding student from school attendance

9. Section 95 amended

In section 95(2) delete “Division.” and insert:

Subdivision.

Note: The heading to amended section 95 is to read:

Principal’s power to exclude from school attendance student enrolled after compulsory education period

10. Section 96A inserted

At the end of Part 3 Division 5 insert:

96A. Subdivision 3 not limited by this Subdivision

Nothing in this Subdivision limits the powers that may be exercised by the chief executive officer under Subdivision 3.

11. Part 3 Division 5 Subdivision 3 inserted

Before Part 3 Division 6 insert:

Subdivision 3 — Suspension and exclusion of student charged with or convicted of sexual offence

96B. Terms used

In this Subdivision —

complainant, in relation to a sexual offence, means a person against whom the sexual offence is alleged to have been committed, whether or not the allegation is finally determined by a court;

sexual offence has the meaning given in the *Parliamentary Commissioner Act 1971* section 19C.

96C. References to conviction

In this Subdivision a reference to a *conviction*, in relation to a sexual offence committed by a person, is a reference to any of the following —

- (a) a court making a formal finding of guilt in relation to the sexual offence;

- (b) a court convicting the person of the sexual offence, if there has been no formal finding of guilt before conviction;
- (c) a court accepting a plea of guilty from the person in relation to the sexual offence.

96D. Suspension of student

- (1) This section applies if the circumstances referred to in section 96E(a) to (c) exist in respect of a student enrolled at a government school.
- (2) The chief executive officer may give a direction in writing to the principal of the school to wholly or partially suspend the student from attendance at the school.
- (3) The principal must give effect to the direction in accordance with the regulations.
- (4) Regulations under subsection (3) must provide for the educational instruction to be given to a suspended student.
- (5) Despite section 230(1), the function of the chief executive officer under subsection (2) cannot be delegated to another person.

96E. Grounds for excluding student from school attendance

For the purposes of this Subdivision the chief executive officer may make an order under section 96G(1) in respect of a student enrolled at a government school if —

- (a) the student has been —
 - (i) charged with a sexual offence; or
 - (ii) convicted of a sexual offence;

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and

- (b) the complainant attends the same school as the student; and
- (c) the chief executive officer forms an opinion that the continued attendance of the student at the school is likely to adversely affect the complainant's —
 - (i) safety or welfare; or
 - (ii) ability to learn.

96F. Procedure for excluding student from school attendance

- (1) If the circumstances referred to in section 96E(a) to (c) exist, the chief executive officer must —
 - (a) give notice to the student and a parent of the student —
 - (i) informing the student and the parent of the student that the chief executive officer has formed the opinion referred to in section 96E(c); and
 - (ii) setting out the reasons for having formed the opinion; and
 - (iii) giving the student and the parent of the student a reasonable opportunity to make written or oral submissions in relation to the proposed exclusion;
- and
- (b) give notice to the complainant and a parent of the complainant —
 - (i) informing the complainant and the parent of the complainant that the chief executive officer has formed the opinion referred to in section 96E(c); and

- (ii) setting out the reasons for having formed the opinion; and
 - (iii) giving the complainant and the parent of the complainant a reasonable opportunity to make written or oral submissions in relation to the proposed exclusion;
 - and
 - (c) notify the principal of the government school that the chief executive officer —
 - (i) has formed the opinion referred to in section 96E(c); and
 - (ii) is dealing with the matter under this Subdivision.
- (2) A principal notified in accordance with subsection (1)(c) cannot deal with the matter as a breach of school discipline or disruptive behaviour under Subdivision 2.
- (3) In making an order under section 96G(1), the chief executive officer must have regard to all of the following —
- (a) any written or oral submissions of the student, or the parent of the student, referred to in subsection (1)(a)(iii);
 - (b) any written or oral submissions of the complainant, or the parent of the complainant, referred to in subsection (1)(b)(iii);
 - (c) the effect of the proposed order on —
 - (i) the student; and
 - (ii) the complainant;

- (d) the capacity of the school to make arrangements to minimise the risk to the complainant's —
 - (i) safety or welfare; or
 - (ii) ability to learn;
 - (e) the availability to the student of an alternative school or educational programme.
- (4) In making an order under section 96G(1), the chief executive officer may have regard to —
- (a) any other matters the chief executive officer considers relevant; and
 - (b) without limiting paragraph (a) — any matters prescribed by the regulations.

96G. Orders that CEO may make

- (1) The orders that may be made by the chief executive officer are 1 or more of the following —
- (a) an order excluding the student from normal attendance at the school but directing the student to attend the school for the purposes specified in the order;
 - (b) an order completely excluding the student from attending the school;
 - (c) an order directing the student to attend a specified government school or to participate in a specified educational programme;
 - (d) an order determining the educational instruction that the student is to be given.
- (2) If an order is made under subsection (1)(a), (b) or (c) the chief executive officer must consider making an order under subsection (1)(d) in conjunction with the other order.

- (3) An order under subsection (1) —
 - (a) may be expressed to have effect for a specified period; and
 - (b) may at any time be revoked or amended by further order made by the chief executive officer.
- (4) Despite section 230(1), a decision by the chief executive officer to make an order under subsection (1) cannot be delegated to another person.

96H. CEO must give notice of order

If the chief executive officer makes an order under section 96G(1), the chief executive officer must give notice to the student the subject of the order, and a parent of the student, setting out the reasons for making the order.

96I. CEO must consider whether to revoke or amend order in certain circumstances

- (1) Subsection (2) applies if —
 - (a) the chief executive officer makes an order under section 96G(1) in relation to —
 - (i) a charge as referred to in section 96E(a)(i); or
 - (ii) a conviction as referred to in section 96E(a)(ii);and
 - (b) 1 or more of the following circumstances apply —
 - (i) the charge is withdrawn or the prosecution of it is discontinued;
 - (ii) the charge is dismissed without a finding as to whether the student is

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- guilty or not guilty in relation to the charge;
 - (iii) the student is acquitted in relation to the charge other than on account of unsoundness of mind;
 - (iv) there is a mistrial in relation to the charge;
 - (v) for any other reason, the student is not brought to trial on the charge;
 - (vi) a conviction in relation to the charge as referred to in section 96E(a)(i), or the conviction as referred to in section 96E(a)(ii), is overturned, quashed or set aside on appeal.
- (2) The chief executive officer must give proper consideration as to whether to revoke or amend the order under section 96G(3)(b).

Note:

The note at the beginning of Part 3 is to be altered in the 5th bullet point after "school discipline" by inserting:

or sexual offending against other students

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