

EDUCATION AND TRAINING REFORM REGULATIONS 2017

INSTRUMENT OF SPECIFICATION

TRANSPORT SERVICES AND TRAVELLING ALLOWANCES – CRITERIA FOR DETERMINING WHETHER A SCHOOL IS APPROPRIATE FOR A STUDENT

1. Title

This Instrument may be cited as *Instrument of Specification: Transport Services and Travelling Allowances – Criteria for Determining Whether a School is Appropriate for a Student*.

2. Purpose

The purpose of this Instrument is to:

- (a) specify criteria for determining whether a school is appropriate for a student under regulation 104(1) of the Regulations; and
- (b) delegate the power to specify additional criteria under regulation 104 to the Secretary to the Department under section 5.2.9 of the Act.

3. Authorising Provisions

This Instrument is made pursuant to regulation 104 of the Regulations.

4. Commencement

This Instrument commences on the day on which it is published.

5. Definitions

In this instrument:

- (a) expressions have the same meaning as in the Act and Regulations unless the contrary intention appears;
- (b) **Act** means the **Education and Training Reform Act 2006**;
- (c) **Department** means the Department of Education and Training;
- (d) **Metropolitan Conveyance Allowance Boundary** means the Metropolitan Conveyance Allowance Boundary adopted by the Department for determining travelling allowance eligibility and amended and published from time to time;
- (e) **Religious denomination** means the 'Narrow groups' adopted by the Australian Bureau of Statistics in its Australian Standard for Classification of Religious Groups (as published from time to time);
- (f) **Regulations** means the Education and Training Reform Regulations 2017;

- (g) **Special school** means a registered school recognised by the Department to be a specialist school or a school with a special setting;
- (h) **Specialist school** means a school:
- (i) established for the main purpose of providing instruction for students with disabilities; or
 - (ii) established for the main purpose of providing instruction for students with social, emotional or behavioural difficulties.
- (i) **School with a special setting** means a school that provides specialist education to students with particular needs and includes schools:
- (i) with deaf facilities for hearing impaired students within a mainstream school;
 - (ii) that provide English language courses targeted at students who have recently arrived in Australia;
 - (iii) that provide, in accordance with the Online Guidance for Re-engagement Programs (as published by the Department from time to time), re-engagement programs operating outside mainstream school settings and provide tailored education and support for children and young people who are disengaged, or have been identified as at risk of disengaging, from mainstream schools;
 - (iv) with secondary teaching units.

6. Criteria for determining whether a Government school is appropriate – travelling allowance

For the purposes of regulation 112(a) of the Regulations, a registered Government school is appropriate for a student if the following criteria are satisfied:

- (a) the school is a school at which the student may be enrolled and attend under Part 2.2 of the Act; and
- (b) if the school is not a special school, the school is located outside of the Metropolitan Conveyance Allowance Boundary.

Note: Part 2.2 of the Act sets out the circumstances in which children of compulsory age are entitled to be enrolled at their designated neighbourhood Government schools and the circumstances in which students may be enrolled at schools other than their designated neighbourhood Government schools (including special schools).

7. Criteria for determining whether a non-Government school is appropriate – travelling allowance

For the purposes of regulations 111(c) and 112(a) of the Regulations, a registered non-Government school (**the relevant school**) is appropriate for a student if the following criteria are satisfied:

- (a) subject to clause 9, the relevant school falls within the same religious denomination as the school at which the student is attending; and
- (b) if the school at which the student is attending is not a special school, the relevant school is located outside of the Metropolitan Conveyance Allowance Boundary; and

- (c) if the school at which the student is attending is a special school, the relevant school is of the same kind or class of special school; and
- (d) if the school at which the student is attending only enrolls students of a particular sex, the relevant school only enrolls students of that particular sex; and
- (e) any other criteria specified in writing by the Department from time to time.

8. Criteria for determining whether a non-Government school is appropriate – transport of non-Government school students

For the purposes of regulations 106(1)(b)(i) and 106(2)(b)(ii) of the Regulations, a registered non-Government school (*the relevant school*) is appropriate for a student if the following criteria are satisfied:

- (a) Subject to clause 9, the relevant school falls within the same religious denomination as the school at which the student is attending; and
- (b) if the school at which the student is attending is a special school, the relevant school is of the same kind or class of special school; and
- (c) if the school at which the student is attending only enrolls students of a particular sex, the relevant school only enrolls students of that particular sex; and
- (d) any other criteria specified in writing by the Secretary from time to time.

9. Exception from criteria – religious denomination of a school

A student mentioned in clauses 7 and 8 may apply to the Department for a determination that a non-Government school is not appropriate for that student where:

- (a) the student does not belong to, or associate with, the school's particular religion, or engage in religious activity associated with that school's religious doctrines; and
- (b) the relevant school compulsorily requires its students to engage in religious activity associated with that religion or religious doctrines.

10. Transitional provisions

This instrument applies to any decisions made under Part 10 of the Regulations after the commencement of the instrument regardless of when the application for travel on an approved transport service or for a travelling allowance was made.

11. Revocation

The Instrument of Specification made by me on 14 March 2019 is revoked on and from the day this Instrument commences.

Dated this 19th day of Dec 2019

Signed: 

**The Hon. James Merlino, MP
Minister for Education**