

SCHOOL ENROLMENT GUIDELINES

GUIDE FOR SCHOOL ATTENDANCE OFFICERS

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ALL CHILDREN TO BE ENROLLED OR REGISTERED FOR HOME SCHOOLING, UNLESS GRANTED AN EXEMPTION

By law all children aged between six and 17 in Victoria must be enrolled at a registered school or registered for home schooling unless they have a reasonable excuse.

School participation is important as it maximises life opportunities for children and young people by providing them with education and support networks. It also helps children and young people to develop important skills, knowledge and values which set them up for further learning and participation in their community.

Home schooling in Victoria is a legally recognised alternative to attending a registered school. Parents who wish to home school their child must satisfy the requirements of the Victorian Regulation and Qualifications Authority. For more information, see: [Home Schooling](#)

Failure to enrol a child at a registered school, or register them for home schooling, may result in the issue of a School Enrolment Notice, Infringement Notice or court proceedings.

Exemptions

Where a student:

- has reached 6 years but has not started school and will be enrolled in a second year of kindergarten; or
- has not reached 17 years but will leave school; or
- is absent from school due to employment in the entertainment industry and certain conditions are met, an exemption from attendance can be sought.

The process for applying for these exemptions is outlined in the [School Policy and Advisory Guide \(SPAG\)](#). Non-government schools are also advised to follow these procedures.

An exemption is not required for these absences, but if there is no exemption the student's absences will count towards the school's absences for reporting purposes. For example, a student with an exemption from attendance for one day per week, who attends the four days per week they are expected to attend, would have 100 per cent attendance, whereas if no exemption was in place the student would have 80 per cent attendance.

Schools should advise parents when an exemption from attendance is required and support parents to apply for the exemption. Schools and parents may also agree to seek an exemption so that a student's absences do not count towards the school's total absences for reporting purposes.

PROCEDURES FOR A SCHOOL ATTENDANCE OFFICER - SCHOOL ENROLMENT NOTICES

Introduction

These procedures are intended to assist School Attendance Officers to enforce compulsory school enrolment laws set out in the *Education and Training Reform Act 2006*, as amended by the *Education and Training Reform Amendment (School Attendance) Act 2013*, and the *Education and Training Reform Regulations 2007* and the *Education and Training Reform (School Attendance) Regulations 2013*.

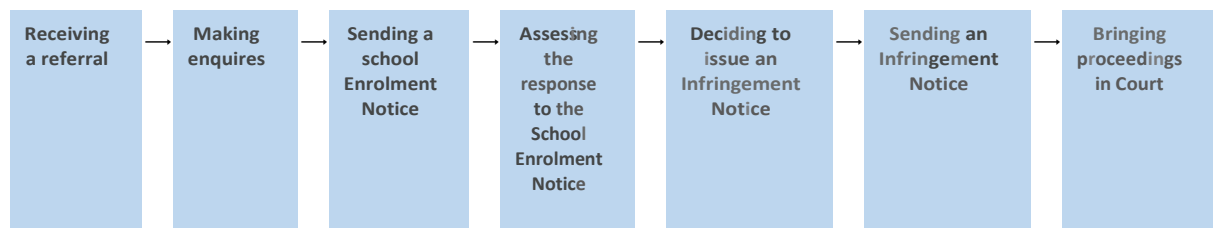
All Department Regional Directors have been re-appointed as School Attendance Officers by the Minister for Education. This guidance only relates to Regional Directors in their roles as School Attendance Officers.

School Attendance Officers must operate within the Code of Conduct.

This guidance applies to all Victorian schools, including non-government schools.

The information below provides guidance on each of the stages of the enforcement process:

- Receiving a referral
- Making enquiries
- Sending a School Enrolment Notice
- Assessing the response to the School Enrolment Notice
- Deciding to Issue an Infringement Notice
- Sending an Infringement Notice
- Bringing proceedings in Court



Receiving a referral about a child or young person who appears not to be enrolled in school or registered for home schooling

Any person may make a referral to a School Attendance Officer about a child of compulsory school age who does not appear to be enrolled in school.

In order to make enquiries and send a School Enrolment Notice, the School Attendance Officer will need to know:

- the full name and date of birth of the child; and
- the name and address of a parent responsible for that child's school enrolment.

Any person making a referral is encouraged to use the referral form as this form will prompt them to ensure they have all the required information before making a referral. A School Attendance Officer may accept a referral by another method if it includes all the required information.

If a referral is received in writing with contact details, the School Attendance Officer should send an acknowledgement receipt to the person who made the referral, stating that the matter is being investigated. If insufficient information is provided, the School Attendance Officer should notify the person that the referral had insufficient information and the matter cannot be investigated unless further

Information is provided. The School Attendance Officers should record the information they do have in case subsequent referrals are made about the same child or young person.

Making Enquiries

Before sending a School Enrolment Notice to a parent, a School Attendance Officer must have a belief on reasonable grounds that the child is not enrolled at a school or registered for home schooling. To establish this belief, the School Attendance Officer is authorised to check if:

- there is a record on the Victorian Student Register that the student is currently enrolled at a school
- there is a current or pending registration for home schooling with the Victorian Registration and Qualifications Authority (VRQA)
- the child is enrolled at the designated Victorian government school.

If a current enrolment is found, the School Attendance Officer is to notify the relevant principal that there are concerns in relation to the child's attendance. The principal should then monitor the child's attendance. If attendance issues are ongoing, the principal should refer to the procedures outlined in the School Attendance Guidelines and, if considered appropriate, make a referral back to the School Attendance Officer.

If a registration for home schooling is confirmed, the School Attendance Officer should notify the VRQA that there are concerns as to whether the child is receiving instruction and advise that the VRQA may wish to make further investigations.

If no current enrolment or registration for home schooling is found, the School Attendance Officer should send a School Enrolment Notice.

Reporting concerns: referral to Child FIRST or report to Child Protection

During the process of following up concerns around a child's enrolment or engagement in education, a School Attendance Officer may form the view that a child is not being supported by parents to participate in education, or that the level of a parent's support for a child's enrolment at school is inadequate. This lack of parental support for participation in education, with or without other evidence of harm, may lead to concerns about cumulative harm to a child, or concerns that the child and their family need the assistance of family services.

If, following consideration of available information, the School Attendance Officer forms the view that lack of parental support may have a low to moderate impact on the child, where the immediate safety of the child is not compromised, a referral to Child FIRST should be considered.

A referral to Child FIRST is the best way of connecting vulnerable children and their families to the services they need to protect and promote healthy development. For more information, see: [Child FIRST](#)

A referral to Child FIRST may be suitable in situations where families are exhibiting or reporting factors that may impact on the child's participation in education such as:

- significant parenting problems
- family conflict, including family breakdown
- families under pressure due to a family member's physical or mental illness, substance abuse, disability or bereavement
- young, isolated and/or unsupported families

- significant social or economic disadvantage that may adversely impact on a child's care or development.

On receiving a referral from a School Attendance Officer, the Child FIRST team will conduct a further assessment of the family and may consult an experienced community-based child protection worker who is based in each Child FIRST team. This assessment may lead to the involvement of a local family services organisation. Child FIRST will inform the School Attendance Officer of the outcome of their referral.

Where a Child FIRST team or a registered Family Services organisation forms a view that a child or young person is in need of protection they must report the matter to Child Protection.

If a School Attendance Officer forms a belief that the child has suffered or is at risk of suffering significant harm, or is in need of immediate protection, they should make a report to Child Protection. For more information, see: [Child Protection](#)

SCHOOL ENROLMENT NOTICES

[Sending a School Enrolment Notice](#)

Before sending a School Enrolment Notice to a parent, the *Education and Training Reform Act 2006* requires that a School Attendance Officer must be satisfied that, after making reasonable enquiries, there are reasonable grounds to believe that a child of compulsory school age is not, at the time of making the enquiries, enrolled at a registered school and is not registered for home schooling in accordance with the regulations.

A template for a School Enrolment Notice is prescribed in the *Education and Training Reform (School Attendance) Regulations 2013* and can be accessed here: [School Enrolment Notice](#). A School Enrolment Notice should be accompanied by information about how to enrol at school and also how to register for home schooling. See: [How to enrol your child in school](#).

Where it is known or suspected that the recipients of the School Enrolment Notice are from a language background other than English, the School Enrolment Notice should be issued in the appropriate language. Forms are available in Vietnamese, Arabic, Cantonese, Turkish and Mandarin. If the School Enrolment Notice is not available in the language required, School Attendance Officers should contact the Student Inclusion and Engagement Division in the Department on student.engagement@edumail.vic.gov.au or 03 9097 1166.

School Attendance Officers and their delegates must keep file notes of any communications with schools and parents. These file notes should be signed and dated.

When sending a School Enrolment Notice the School Attendance Officer should ensure:

- all fields are complete
- the document is legible
- names are correct (of both the child and the parent)

- address details are correct
- all dates, including birth dates and dates of non-attendance are correct
- the notice is signed and dated
- any relevant evidence is attached to the notice
- any available fact sheets that may be of use to the recipient are attached to the notice
- copies of the notice and related documents are sent to the Director, Student Inclusion and Engagement Division in the Department's central office.

Assessing the response to the School Enrolment Notice

To comply with a School Enrolment Notice, a parent must reply to the School Attendance Officer by the due date (being a date no less than 21 days after the notice was issued)) stating:

- that the child has been enrolled or conditionally enrolled at a registered school or has been registered for home schooling, or
- a reasonable excuse as to why the child is not enrolled in a registered school or registered for home schooling; or
- that the parent is unable to provide a reason because the parent does not have parental responsibility for enrolling the child in school.

If a response is received but is inadequate, the School Attendance Officer may consider contacting the parent to obtain further information and documentation.

If there is no response or the response is completely inadequate or unreasonable the School Attendance Officers may consider issuing an official warning or an Infringement Notice. In making this decision, the School Attendance Officer must operate within the Code of Conduct.

Parent responds with details of the child's enrolment in school

If a parent provides details of enrolment at a registered school, the School Attendance Officer should confirm the enrolment with the principal. If the enrolment is confirmed, the principal should be advised to monitor the student's attendance. The parent should then be reminded of the requirement to ensure the child attends school at all times it is open for instruction.

If attendance issues are ongoing, the principal should refer to the procedures outlined in the Attendance Guidelines and, if considered appropriate, make a referral back to the School Attendance Officer.

Where, to complete enrolment, a school requires authorisation from both parents and consent from one parent has not been obtained, the parent who has taken all steps to enrol the child is deemed to have responded sufficiently to the School Enrolment Notice. The School Attendance Officer could then send a new School Enrolment Notice to the parent who has withheld consent.

Parent responds stating that child is registered for home schooling

If a parent responds to a School Enrolment Notice stating that the child is registered for home schooling, they should attach a copy of the registration confirmation from the VRQA. If no confirmation is attached, the School Attendance Officer should confirm the details of the registration with the VRQA.

The School Attendance Officer should notify the parent that they have complied with the School Enrolment Notice, and remind the parent that they must also ensure the child receives regular and efficient instruction in accordance with VRQA requirements.

Parent responds with a reasonable excuse

If the parent responds to the School Enrolment Notice within the prescribed time and the School Attendance Officer determines that the parent has provided a reasonable excuse for the non-enrolment, then the School Attendance Officer should send a letter to the parent confirming they have met their obligations.

Parent responds without a reasonable excuse

If the parent responds to the School Enrolment Notice within the prescribed time, but the School Attendance Officer determines that the parent has not provided a reasonable excuse for not enrolling their child in school or registering the child for home schooling, the School Attendance Officer then has to decide on appropriate action, which may include issuing an official warning or an Infringement Notice. For guidance in making this decision, see: [Decision to issue an Infringement Notice](#)

Parent responds stating they do not have parental responsibility for the child's enrolment at school

When a parent (parent A) responds to a School Enrolment Notice to the effect that they do not have parental responsibility for the child's enrolment, they may nominate another parent (parent B) who does have parental responsibility for the child's enrolment.

In this situation, the School Attendance Officer should send a:

- letter to parent A confirming receipt of their response, and a
- new School Enrolment Notice to parent B (if details provided).

If parent B re-nominates the parent A, the School Attendance Officer should attempt to gather more information (for example copies of court orders). If, based on further information received, the School Attendance Officer has reason to believe one or more of the parents does have parental responsibility for the child's enrolment, the School Attendance Officer could re-send the School Enrolment Notice to the parent he/she believes does have parental responsibility. The letter should advise that their nomination was not accepted and that the parent is required to respond to the notice giving details that the child has been enrolled at school or with an explanation as to why the child is not enrolled or issue court proceedings against the parent who has provided false information in response to a School Enrolment Notice.

Parent does not respond

If the parent does not respond to the School Enrolment Notice within the prescribed time, then the parent has committed an offence.

In these cases, it may be prudent to make contact by telephone or email to determine whether they have received the School Enrolment Notice and /or whether there are other circumstances that led to failure to respond to the School Enrolment Notice.

The School Attendance Officer may wish to refer the parent to appropriate external agencies who may be able to provide support and assistance to the parent. In such circumstances, it may be appropriate to re-visit enrolment when the circumstances have changed.

If there are no exceptional circumstances, the School Attendance Officer will need to consider what further action to take. One of the options is to issue an Official Warning or an Infringement Notice. For guidance in making this decision, see: [Decision to Issue an Official Warning or an Infringement Notice](#).

INFRINGEMENT NOTICES

Decision to issue an Infringement Notice

The issuing of an Infringement Notice or beginning proceedings in court should be an act of last resort.

Infringement Notices issued in relation to school enrolment must comply with the *Infringements Act 2006*. School Attendance Officers must familiarise themselves with the provisions of the *Infringements Act 2006*, particularly in relation to *special circumstances* and *exceptional circumstances*.

School Attendance Officers have discretion about which action to take. Before deciding to:

- take no further action,
- issue an official warning,
- issue an Infringement Notice (except for the offence of providing false information), or
- commence proceedings in the Magistrates' Court

a School Attendance Officer should consider any other information about the circumstances of the parent.

The infringements regime recognises there are circumstances in which a person's capacity to comply with a law or regulation is limited for reasons beyond their control. In such circumstances, it would be unfair to punish the person for their non-compliance.

Considerations for School Attendance Officers

There are circumstances in which School Attendance Officers should not issue an Infringement Notice.

A School Attendance Officer may, from the parent's response to the School Enrolment Notice or from information provided by the referring person, have information about any special or exceptional circumstances the parent could use as grounds for an appeal. This creates a different situation for a School Attendance Officer compared to the amount of information held by issuing officers for many other Infringement Notices (for example parking offences).

Whenever possible, School Attendance Officers should identify cases in which special or exceptional circumstances or other grounds for appeal may apply. This is best done at the stage of assessing the response to a School Enrolment Notice, rather than issuing an Infringement Notice and waiting for the parent to appeal.

Special circumstances are those situations in which a person should not be criminally liable for his or her conduct. Special circumstances exist if the person suffers from:

- a mental or intellectual disability, disorder, disease or illness resulting in the person being unable to understand or control the conduct that constitutes the offence;
- a serious addiction to drugs, alcohol or a volatile substance (chroming) resulting in the person being unable to understand or control the conduct that constitutes the offence; or
- homelessness, where this results in the person being unable to control the conduct that constitutes the offence.

Exceptional circumstances cover less serious and less enduring circumstances than special circumstances. Exceptional circumstances cover cases where a person has enough awareness and self-control to be liable for his or her conduct, but has a good excuse. This category can encompass other areas of disadvantage which do not fall within the narrow definition of 'special circumstances'.

The 'exceptional circumstances' test provides the infringements system with the flexibility to determine whether, taking into account the circumstances in which the offending conduct occurred, the imposition of a penalty was justified. Existing case law and legislation leaves considerable discretion for decision makers in defining exceptional circumstances.

School Attendance Officers can consider any additional circumstances of the parent who may be subject to an Infringement Notice and may use discretion to decide when to issue an Infringement Notice.

Circumstances such as a genuine attempt to comply or reasons beyond a person's control may be considered.

It is also important to note that the legislation does not permit an Infringement Notice or legal proceedings to commence against the following persons:

- the Secretary of the Department of Human Services carrying out their responsibilities under an order made under the Children Youth and Families Act 2005
- a person carrying out parental responsibilities for a child on behalf of the Secretary, Department of Human Services

EXAMPLES OF WHEN NOT TO ISSUE AN INFRINGEMENT NOTICE

- If the School Attendance Officer forms the view that a parent with a mental or intellectual disability did not have the ability to understand the requirement to respond to the School Enrolment Notice.
- If the School Attendance Officer forms the view that there were circumstances that prevented the parent from responding adequately to the School Enrolment Notice, for example, the parent or a family member was ill or absent from home during the prescribed period for responding to the notice.
- Where false information has been provided in response to a School Enrolment Notice. This offence should be the subject of court proceedings.
- Where the person with parental responsibilities is the Secretary of the Department of Human Services carrying out parental responsibilities for a child under an Order made under the *Children Youth And Families Act 2005*, or any person carrying out parental responsibilities on behalf of the Secretary. Issuing an Infringement Notice to such a person would be contrary to law.

When to issue an official warning

An official warning may be appropriate for the first time a parent fails to comply with a School Enrolment Notice and the information provided in the response indicates there may be special circumstances or exceptional circumstances.

The School Attendance Officer can issue an official warning by using the template provided and sending it to the parent. For the template, see [Official Warning](#). The School Attendance Officer must keep a record of the official warning and the reasons for choosing this action.

When to send an infringement notice

A School Attendance Officer has discretion to issue an Infringement Notice. An Infringement Notice would be appropriate when:

- a parent has not responded to a School Enrolment Notice
- a parent has responded giving an explanation that is not a reasonable excuse, and provided no further information about circumstances that may indicate special circumstances or exceptional circumstances, or
- after an official warning has previously been issued to the parent.

School Attendance Officers are required to operate within the Code of Conduct for School Attendance Officers when issuing an Infringement Notice. In making the decision to send an Infringement Notice, School Attendance Officers are required to refer to these guidelines and to keep reliable records of decisions that involved the exercise of some discretion or the consideration of information or excuses provided by the parent.

Factors such as cultural/linguistic background, economic conditions and social disadvantage should be part of the School Attendance Officer's considerations at this point.

Sending an infringement notice

If the School Attendance Officer determines that it is appropriate to issue an Infringement Notice, they should complete the Infringement Notice template.

The Infringement Notice should then be mailed to the recipient using registered mail and to Civic Compliance Victoria, 277 William Street, Melbourne, 3000. A copy of the Infringement Notice should also be provided to the Director, Student Inclusion and Engagement Division at 33 St Andrews' Place, East Melbourne, 3002. From this point onwards the Student Inclusion and Engagement Division in conjunction with the Legal Division, will manage proceedings. Accordingly, all evidence required to this point should be forwarded to the Director, Student Inclusion and Engagement Division.

If a School Attendance Officer receives any subsequent correspondence that relates to an Infringement Notice that has been issued, the correspondence should be immediately referred to the Student Inclusion and Engagement Division of the Department for appropriate follow up and action.

Appeals

School Attendance Officers should be aware that any person receiving an Infringement Notice may apply to the Department of Education and Early Childhood Development for an internal review of the decision to issue the Infringement Notice, on one of more of the following grounds:

- There was a defect or mistake made in the decision to serve the notice. This ground encompasses two possibilities:
 - the decision to issue the notice was contrary to law; or
 - there was a mistake of identity
- There are special circumstances.
- There are exceptional circumstances that justify excusing the conduct for which the notice was issued.

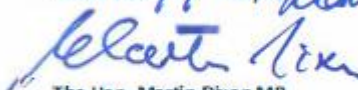
The Department will consider the appeal and make one or more of the following decisions:

- Confirm the decision to issue an Infringement Notice
- Withdraw the Infringement Notice and issue an official warning in place of the Infringement Notice
- Withdraw the Infringement Notice
- Withdraw the Infringement Notice and refer the matter to court
- Waive all or any of the prescribed costs that have been attached to the Infringement Notice
- Approve a payment plan

BRINGING PROCEEDINGS IN COURT

Should a School Attendance Officer form the view that court proceedings are the most appropriate course of action, they should refer the matter to the Student Inclusion and Engagement Division of the Department for a final decision.

Before contacting the Student Inclusion and Engagement Division, the School Attendance Officer should ensure they have evidence or reliable records of decisions that involved the exercise of some discretion or consideration of information or excuses provided by the parent.

Dated this 17th day of March 2014

 The Hon. Martin Dixon MP
 Minister for Education