

MINISTERIAL INSTRUCTION

NO 7 FOR ELIMINATING OR AMELIORATING RISKS TO HEALTH AND SAFETY OF PERSONS AT SCHOOL

Statement

This Ministerial Instruction applies to all State and Non-Government Schools and provides principals with the authority to request or require information about a child's behaviour where it may pose a risk to the health and safety of the child, or other persons at the school, while supporting the child's access to education.

Date published: July 2017

Ministerial Instruction No 7 for Eliminating or Ameliorating risks to health and safety of persons at school

I, Jeremy Rockliff, being the Minister for Education and Training, make the following instruction for the purposes of Sections 61-66 of the *Education Act 2016*.

1. Purpose

1.1.1. The purpose of this Ministerial Instruction is to specify the:

- a. requirements for principals when developing strategies to eliminate or ameliorate the likelihood of a child posing a risk, because of their behaviour, to the health and safety of the child or other persons at the school, while supporting the child's access to education.
- b. requirements for obtaining information about a child attending school for the purpose of developing such strategies to eliminate or ameliorate the risk of harm to other people at the school.

2. Scope

This Ministerial Instruction applies to State and non-government schools.

This Ministerial Instruction comes into effect on 10 July 2017.

3. Instructions

3.1. Requirements

3.1.1 A principal of a school is required to develop and maintain strategies, in accordance with this Ministerial Instruction, to eliminate or ameliorate the likelihood of a child who is attending, or who will attend a school from posing a health and safety risk to themselves, or any other person at the school.

3.1.2 At enrolment, a principal is to require a declaration from a parent of a child as to whether the child's behaviour poses any risk to health and safety to the child or other persons at the school.

3.2. General Principles

3.2.1 Any action taken under this Instruction is to be guided by the following principles:

- a. Schools must do what is reasonably practicable to assess and address the health and safety risks posed by a child's behaviour;
- b. The parent and the child are to be consulted, unless exceptional circumstances apply;
- c. Relevant parties are to be informed and understand their roles, rights and responsibilities to the greatest possible extent;
- d. Information obtained about a child can only be used for the purpose for which it was obtained;
- e. Compliance with the Anti-Discrimination Act 1998 and other legislation and statutory responsibilities must be upheld;
- f. There are to be open channels of communication between prescribed authorities, and the relevant agencies and services.

3.3. Matters likely to constitute a risk to the health and safety

3.3.1 This includes any behaviours that are likely to pose a risk to the physical or psychological health or safety of the child or any school student or other persons at the school.

3.4. Assessing of risks

3.4.1 A risk assessment must be undertaken in accordance with the policies specified by the Administrative Authority.

3.5. Information required

3.5.1 The prescribed authority must be able to demonstrate how any information requested or required will assist in assessing the level of risk a child's behaviour poses and/or developing a risk management strategy.

3.5.2 Medical information

A prescribed authority may request in writing, but not require, a parent of a child to provide medical information about the child, or consent for the prescribed authority to request the information from another source.

3.6. Structure of strategies

3.6.1 A principal must develop and maintain strategies to eliminate or ameliorate the likelihood that a child's behaviour will pose a risk to health and safety of the child, or other persons at the school.

3.6.2 Strategies should be structured to include:

- a. specific situations in which the risk may need to be dealt with (e.g. the classroom, the playground, and sport at the school);
- b. consultation with the parent and/or child (unless exceptional circumstance apply as defined in Section 3.7) and any other person who may assist in the development and maintenance of effective strategies;
- c. consultation with school staff prior to the child commencing school or during the development of risk assessment and management strategies;
- d. alignment of approach with the child's behaviour management plan and/or Individual Education Plan or similar;
- e. Other matters as determined by a policy established by the Administrative Authority.

3.7. Circumstances in which a parent and/or child is not consulted

3.7.1 Parent

A principal is not required to consult with a parent if the principal considers:

- a. on reasonable grounds that involving the parent in the risk assessment and management strategy process would not be in the best interests of the child; or
- b. that consultation would be contrary to the health and safety of other persons at the school.

3.7.2 Child

A principal is not required to consult with a child if the principal considers that:

- a. the child is not mature enough to contribute to the process; or
- b. consultation would be contrary to the health and safety of other persons at the school.

3.8. Requirements for keeping and disposing of information

3.8.1 Keeping of information

Records containing information used to inform the risk assessment and management strategies, and the strategies themselves, must be stored in a secure location as determined by the Administrative Authority.

3.8.2 Disposing of information

Records can only be disposed of in accordance with relevant legislation and must be preserved and remain accessible until retention periods have been met.

4. Definitions

As per the Education Act 2016.

5. Details

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Table 1: Details of document authorisation

6. History of Changes

Effective date	Last update date	Policy version no.	Notes
10 July	-	1	New Education Act 2016.

Table 2: History of document changes