Refusal to enrol – Risk to safety or wellbeing

Audience
Department-wide

Purpose
This procedure outlines responsibilities of personnel in relation to refusing the enrolment of a student, including a mature age student, who poses an unacceptable risk to the safety or wellbeing of a school community.

References in this procedure to a ‘prospective student’ include a student applying for enrolment as a mature age student.

Overview
A principal who reasonably believes that a prospective student poses an unacceptable risk to the safety or wellbeing of members of a school community refers that student’s application to enrol through the Regional Director to the Director-General (Determining whether a student poses an unacceptable risk).

If the prospective student is applying for enrolment as a mature age student, the principal must consider the following in relation to any charges or convictions listed in the prospective student’s criminal history to determine the risk posed by the prospective student:

- whether the offence is a serious offence;
- when the offence was committed or alleged to have been committed;
- the nature of the offence and its relevance to the prospective student being a mature age student of the school; and
- for a conviction, whether a penalty was imposed and the nature of the penalty.

If the Director-General is satisfied that the prospective student does not pose an unacceptable risk, the principal enrols the prospective student.

The Director-General, if satisfied that the prospective student poses an unacceptable risk to members of the school community, refuses the prospective student enrolment at the school.
A prospective student who is refused enrolment cannot apply again to enrol at that school for a period of one year after receiving notice of the decision to refuse enrolment.

A prospective student cannot be refused enrolment because their enrolment would simply cause some difficulty. Refusal of enrolment is contingent on being able to demonstrate that the prospective student poses an unacceptable risk to the safety or wellbeing of members of the school community. In this respect principals should take care to properly document all sources of relevant information and ensure that their views in respect of risk are clearly linked to relevant supporting evidence.

Note, that the Director-General can, instead of refusing enrolment from one school, decide to exclude a student from certain state schools or all state schools, if the Director-General is reasonably satisfied that the student poses an unacceptable risk to students and/or staff at more than one school (see the Safe, supportive and disciplined school environment procedure).

It is unlawful to refuse a prospective student’s enrolment on the grounds that they have a disability (Disability Discrimination Act 1992 (Cwlth)).

Responsibilities

Principals

- Assessing potential risks associated with the enrolment of prospective students and determining whether or not these risks are able to be managed at the school site (e.g. through the implementation of an individual plan, a risk management strategy, flexible learning arrangement or alteration to the educational program).
- Implementing processes as outlined in RTE-11: Flow chart: Refusal to enrol – Risk to safety or wellbeing where a reasonable belief is held that a prospective student poses an unacceptable risk to the safety or wellbeing of the school community.
- Sending RTE-2: Advice to Director-General - Prospective student who poses potential unacceptable risk form to the Regional Director.

Regional Directors

- Making a recommendation and forwarding the application for enrolment referred by a principal to the Director-General, whether recommended or not, within five school days of receipt.
- Appointing a regional case manager to liaise with the applicant.

Regional Case Managers

- Contacting the applicant and making reasonable attempts to arrange a program of distance education for the prospective student, or for prospective students in the compulsory participation phase, identifying a suitable eligible option in which he or she can participate while awaiting the Director-General’s decision. This must occur within five school days of receipt of referred application.
Director-General

- Deciding whether to refuse the enrolment of a prospective student at the school, or excluding the student from certain state schools or from all state schools.
- Deciding whether to affirm, vary or set aside the decision, on receiving a submission for a review of a decision about refusal of enrolment.

Process

**Principals**

1. Within 5 school days of receiving the application send the applicant (the prospective student or their parent) RTE-1: Letter to applicant – Referral of application to enrol advising:
   - that application for enrolment has been referred to the Director-General for consideration;
   - that the prospective student cannot attend the school until such time as the Director-General is satisfied that the prospective student does not pose an unacceptable risk to the safety or wellbeing of the school community;
   - that the applicant will be contacted by a Case Manager who will assist the applicant to make arrangements so that the prospective student can continue their education while the Director-General’s decision is pending; and
   - of decision-making processes associated with the Director-General’s consideration of the application.

2. Provide the prospective student, or where the prospective student is a child, their parent, with access to all information relevant to decision-making in relation to refusal to enrol.

3. Send the enrolment application and associated advice to the Regional Director.

4. Following the Director-General’s decision, if the Director-General is satisfied that the prospective student does not pose an unacceptable risk to members of the school community, enrol the prospective student and devise an educational program and risk management strategies to address initial concerns.

5. Keep documentation related to the application and decision-making processes, as well as records of any correspondence or further contact with the prospective student, where the Director-General decides to refuse enrolment to the prospective student.

**Regional Directors**

1. Make a recommendation and forward it to the Director-General using RTE-2: Advice to Director-General - Prospective student who poses potential unacceptable risk.

2. Attach to the advice notice, a copy of any information relevant to the Director-General’s decision-making.

**Director-General**

Where the Director-General is not satisfied that the prospective student poses an unacceptable risk:

1. Notify the principal that the prospective student is not to be refused enrolment and that they are to be enrolled immediately using RTE-3: Advice to principal - Student not considered unacceptable risk.
2. Notify the applicant (the prospective student or their parent) that their application to enrol is to be accepted using RTE-4: Letter to applicant – Student not considered unacceptable risk.

Where the Director-General considers that a prospective student appears to pose an unacceptable risk:

3. Issue the applicant (the prospective student or their parent) with a show cause notice using RTE-5: Show cause notice – Refusal to enrol that outlines:
   - intent to refuse enrolment;
   - grounds for the decision;
   - facts and circumstances related to the grounds;
   - that the prospective student might show cause why their enrolment should not be refused; and
   - a show cause period of no less than 14 days after the notice is received by the applicant.

4. Consider any information provided by the applicant during the show cause period.

5. Decide, after considering any representations made by the applicant, whether the prospective student poses an unacceptable risk to members of the school community.

Where the Director-General is not satisfied that a prospective student poses an unacceptable risk after considering representations:

1. Advise the applicant (the prospective student or their parent) that their enrolment is not to be refused on these grounds using RTE-4: Letter to applicant – Student not considered unacceptable risk.

2. Notify the principal of the decision that the prospective student does not pose an unacceptable risk and that they are to be enrolled immediately using RTE-3: Advice to principal - Student not considered unacceptable risk.

Where the Director-General is satisfied that a prospective student poses an unacceptable risk to a school community:

1. Provide the applicant (the prospective student or their parent) with an information notice using RTE 6: Information notice – Refusal to enrol at a state school that outlines:
   - the decision to refuse enrolment at the school;
   - the grounds for the decision;
   - the facts and circumstances related to the grounds; and
   - the prospective student’s right to seek a review of the decision.

2. On the same day as the information notice is sent to the applicant, notify the principal who submitted the application of the decision to refuse enrolment and direct him/her not to enrol the prospective student using RTE-8: Advice to principal - student refused enrolment or excluded.

Where the Director-General is satisfied that a prospective student poses an unacceptable risk to certain state schools or all state schools:
1. Follow the exclusion process outlined in the Safe, supportive and disciplined school environment procedure.

After the Director-General has reviewed a decision about refusal of enrolment:

1. Notify the applicant (the prospective student or their parent) of the outcome of the review, as soon as practicable after the Director-General makes the decision using RTE-8: Advice to principal – Student refused enrolment or RTE-9: Notice – Outcome of a review of a decision re refusal to enrol

2. Within seven days after the Director-General has told the applicant about the decision, issue the applicant with a written notice that outlines:
   o the Director-General’s decision to affirm, vary or set aside the original decision;
   o grounds for the review decision;
   o the facts and circumstances related to the grounds; and
   o the reasons for the review decision.

3. Notify the Regional Director and the principal of the school where application was received of the outcome of the review.

Definitions
Nil

Legislation
• Education (General Provisions) Act 2006 (Qld) Chapter 8 Part 1, 2 and 4
• Disability Discrimination Act 1992 (Cwlth) Part 2, Division 2, Section 22

Delegations/Authorisations
• Nil

Related policies
• The Code of School Behaviour

Related procedures
• Enrolment in state primary, secondary and special schools
• Safe, supportive and disciplined school environment

Guidelines
• Nil
Supporting information/websites

- RTE-1: Letter to applicant - Referral of application to enrol
- RTE-2: Advice to Director-General - Prospective student who poses potential unacceptable risk
- RTE-3: Advice to principal - Student not considered unacceptable risk
- RTE-4: Letter to applicant - Student not considered unacceptable risk
- RTE-5: Show cause notice - Refusal to enrol
- RTE-6: Information notice - Refusal to enrol at a state school
- RTE-8: Advice to principal - Student refused enrolment or excluded
- RTE-9: Notice – Outcome of a review of a decision re refusal to enrol
- RTE-10: Information for parents and students - Reviews against decisions regarding refusal of enrolment
- RTE-11: Flow chart: Refusal to enrol – Risk to safety or wellbeing
- Determining whether a student poses an unacceptable risk

Contact

For further information, please contact your regional office.

Review date

31/12/2017

Superseded versions

Previous seven years shown. Minor version updates not included.

2.0 Refusal to enrol – Risk to safety or wellbeing
3.0 Refusal to enrol – Risk to safety or wellbeing

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