



Appendix two – NESA's risk-based compliance monitoring

NESA's risk-based approach to monitoring compliance

To be eligible for NSW Government funding, a school must be registered with NESA. For new schools, NESA may grant initial registration for up to 12 months. NESA will then inspect schools on re-registration (typically every 5 years). Where there are concerns, NESA may conduct inspections more frequently. The Minister may cancel a school's registration or impose conditions on or extend its registration if there are concerns about compliance. Imposing conditions requires the school to do or not do certain things to comply with the registration requirements. Extension requires a school to address any areas of concern before its registration is renewed.

In 2017, NESA revised its risk-based approach to monitoring compliance on re-registration. NESA uses its 26-item risk factor assessment tool to assess the risk associated with each non-government school prior to assessing re-registration. The tool is weighted towards detecting issues with student learning and welfare. For lower risk schools, NESA will inspect a subset of the registration requirements, which does not include the requirement for schools to have policies and procedures for proper governance (Exhibit 9). NESA relies on the school principal to certify compliance with the registration requirements it does not inspect. If NESA identifies concerns during a review, it can expand the scope of the review accordingly.

Exhibit 9: Governance requirements for registered individual non-government schools

Persons responsible for school governance

The Education Act defines a 'responsible person' as:

- the proprietor of the school and, if the proprietor is a corporation, each director or person concerned in the management of the school, or
- a member of the governing body of the school, or
- the principal of the school.

Each person defined under the Education Act as a 'responsible person', and any other person or body exercising similar functions in relation to the school as those of a 'responsible person', is a fit and proper person or body.

Proper governance

A registered non-government school must have policies and procedures for the proper governance of the school in place. These include:

- Policies and procedures
 - The 'responsible persons' for a non-government school, are responsible for developing and implementing policies and procedures to govern and operate the school in order to satisfy its legal obligations, manage risk, provide strategic guidance and monitor performance.
- Conflict of interest
 - Each 'responsible person' for a non-government school must avoid situations in which his or her personal interests or the interests of a relative or close associate may conflict either directly or indirectly with decisions made by the governing body, whether the conflict is actual, perceived or potential.
- Related party transactions register
 - A non-government school must have policies and procedures for financial management including a register of all related party transactions which is validated by an external independent auditor.
- Professional learning for 'responsible persons'
 - Proper governance of a non-government school requires policies and procedures for the ongoing professional development of 'responsible persons' for the school to ensure that the school's 'responsible persons' have relevant qualifications, skills and experience for governing the school properly.
- Induction process for new 'responsible persons'
 - Proper governance of a non-government school requires policies and procedures for the induction of new 'responsible persons' for the school.
- External independent attestation audit of annual financial statements
 - The school's annual financial statements are to be audited and certified by an external independent auditor.

Financial viability

- A registered non-government school must be financially viable.

Source: NSW Education Standards Authority Registered and Accredited Individual Non-government schools (NSW) Manual December 2017.