

Non-Government Schools Not-For-Profit Advisory Committee

Finalisation of the 2015 Audit Program

Amendments to the *Education Act 1990* require all schools in receipt of NSW Government funding to operate on a **not for profit** basis within the meaning of the Act. Schools selected for audit will be required to demonstrate their compliance with the legislation.

The 2015 Audit Program has been completed with Ernst & Young examining the financial practices of a number of schools to establish compliance with the not-for-profit requirements.

The audits covered the period since the new legislation commenced (29 January 2015) until 30 June 2015.

Pleasingly, the audits revealed that most schools were operating in accordance with the not-for-profit requirements under Section 83 of the Education Act 1990 (NSW) ("The Act"). A number of schools, however, were not strictly adhering to the Not-for-Profit requirements of the Act with the schools in question being given the opportunity to address relevant issues.

Two main issues arose from the 2015 Audit Program that schools should consider:

- **Loans granted by schools to other organisations or related individuals** – these loans may render a school as being in contravention of the Not-for-Profit legislation and accordingly be declared by the Minister as operating "For Profit". Schools are not funded to provide loans to individuals or organisations. Loans are a matter for banks and financial institutions and not for schools to provide such a service.
- **Sponsorship, advertising or other fees paid by a school to organisations/individuals when no service was received or evident** – any fees paid by a school must be for a service received at a reasonable market value to the school.



Schools must utilise State Government funding for property, goods or services that are required for the operation of the school. Aside from the standard audit program specific allegations of for-profit activity in a nominated non-government school will continue to be investigated separately.

Reminder to Consult the Guidelines

In the first instance Non-Government schools should consult the *Not-for-profit Guidelines for Non-Government Schools* to assist them in understanding and complying with not-for-profit requirements under Section 83 of the *Education Act 1990*.

The *Guidelines* were developed by the Non-Government Schools Not-For-Profit Advisory Committee with the assistance of representatives from the Association of Independent Schools of NSW, the NSW Catholic Education Commission, the Department of Education, Independent and Catholic school bursars and Catholic Education Offices.

The *Guidelines* assist schools to minimise the risk of non-compliance by providing practical guidance on complying with the Act in respect of common financial transactions. By way of example:

- **Related Party Transactions** – A Related Party Transaction includes any transaction through which a responsible person acting on behalf of the school provides a financial or other tangible benefit to a related party. The Not-for-Profit Guidelines should be closely adhered to by schools when engaging in a Related Party Transaction to ensure compliance with the Act.

The *Guidelines* also encourage good practice and provide examples of the types of documentary evidence that schools can reasonably be expected to have available in the event of an audit.

Whilst the Guidelines provide assistance in determining whether activity may or may not be consistent with the *Education Act 1990* requirements, if you have any questions or concerns about whether your school is compliant, you are encouraged to contact the Association of Independent Schools of NSW or the NSW Catholic Education Commission.

The *Guidelines* can be found on the Department of Education website [here](#).

The *Guidelines* apply to all registered non-government schools in New South Wales that receive funding from the NSW Government.



Case Study – Gifts to staff



On occasion, schools may wish to provide small non-cash gifts including gift cards to staff members to acknowledge special events such as the birth of a baby, weddings etc.

Schools should consult the Not-for-profit Guidelines for Non-Government Schools to ensure they are compliant and also have a written policy in place to cover situations where small non-cash gifts are provided.