



# EDUCATION LEGISLATION REFORM

## REPORT ON WHAT WE HEARD

**The ACT Government is proposing to modernise enrolments, attendance, participation and distance education requirements in the *Education Act 2004*.**

In August 2018, the ACT Government released the [\*Future of Education: An ACT Education Strategy for the next ten years\*](#). In the Future of Education strategy, one of the first actions under the foundation of ‘systems supporting learning’ is to review and amend the *Education Act 2004* (the Act), to strengthen equity, student agency, access, and inclusion. The Government is taking a phased approach to amending the Act.

We are currently progressing the fifth phase of amendments to the Act, which will form the *Education Amendment Bill 2024* (the Bill). This Bill is focused on updating enrolment, participation and attendance requirements as well as establishing requirements for delivery of distance education in the ACT. The majority of the amendments proposed apply to all public, Catholic and Independent schools in the ACT, while a small number of amendments will apply to public schools only.

At this early stage in the development of the Bill, we sought initial feedback from the community and key education stakeholders about the proposed changes. Further consultation on the detail of the amendments will occur after the Bill has been drafted.

## THE CONVERSATION

**We held conversations with the community and key education stakeholders both online and in-person.**

We sought the views of the community online through [YourSay Conversations](#) which featured two discussion papers and gave the community the opportunity to provide feedback via a survey, a written submission or a short comment on a message board. The YourSay Conversations consultation opened on 26 April 2023 and ran for six weeks before closing on 6 June 2023.

During this time, we also sent out discussion papers to a range of education stakeholders and community organisations and received multiple detailed written submissions in response.

Online and in-person meetings were held directly with a number of education stakeholders. In addition, we held an in-person roundtable with key stakeholders at the end of the consultation period, where we shared a summary of the feedback that had been received and workshopped key elements of the proposed Bill.

Through YourSay Conversations and stakeholder consultations we sought community views on a range of proposed amendments to enrolments, attendance and participation requirements in the Act.

The proposed amendments include updates to existing provisions in the Act, such as expanding the definition of key terms like ‘student’ and ‘attendance’, to better reflect the flexibility of school operating environments.



We proposed to provide greater clarity to the concepts of priority enrolment areas for government schools and the right to choose a suitable educational environment, to better align the Act with how these concepts function in practice. We also suggested including more detail on what constitutes a reasonable excuse in different sections of the Act including attendance, participation and information and compliance notices. This addition would assist schools and parents by providing greater clarity about what can be considered a reasonable excuse in different situations.

We also sought the community's view on including a provision in the Act that would allow flexible attendance requirements to be directed by a school. This proposal would allow for these requirements to be used in response to instances of significantly disruptive or potentially unsafe behaviour. Schools would be able to direct that a student access their learning through alternative means, such as changing their hours of attendance, or the location from which they learn, on either a part-time or full-time basis. This direction would only be issued for a limited time and be supported by strong safeguards, including regular review periods, noting the intent to enable the student to return to usual learning arrangements as soon as possible. Flexible attendance requirements are intended to allow schools greater scope to mitigate safety risks, while also ensuring that students are still able to continue to access education.

We consulted on amendments aimed at ensuring that ACT children continue to stay involved in education, including a proposal to make it a legal requirement for parents to confirm the next enrolment destination for their child to the Government when unenrolling them from a school. This proposal was a recommendation from a coronial inquiry.

We also asked about moving from a compliance-based approach to a support-based approach, for encouraging the attendance of students who are regularly absent from school. This amendment proposes to remove the current requirement for students who are not attending to be referred to an authorised person, a regulatory role within the Education Directorate, and we asked the community who should fulfill this role instead.

We also asked stakeholders and the community about the role distance education should play in the ACT going forward. In particular, we sought community views on whether the Act should allow for distance education to only be offered on the basis of specific enrolment criteria for all schooling sectors.

## WHO WE ENGAGED

**During our consultation we engaged with a diverse range of stakeholders involved in both the delivery of education and education advocacy.**

In particular, we held consultation meetings with representatives from the non-government education sector, organisations representing parents, workforce representatives and unions. We also consulted with the ACT Human Rights Commission and the Office of the Senior Practitioner on the potential implications of the amendments on human rights and restrictive practices.



**YOUR SAY**



In response to the YourSay Conversations, we received written submissions from a range of community organisations, including those with a focus on the needs of students with disability, LGBTIQ+ students and vulnerable students more generally. Submissions were also received from schools and Parents and Citizens councils and other community organisations with a focus on the delivery of education. We received over 100 contributions via survey responses, submissions and message board input from a range of individuals and organisations through YourSay Conversations.



## Key insights from the community

### New 'student' and 'attendance' definitions

- There was strong support among stakeholders and the community for providing a clear definition of a 'student' to apply across the Act.
- There was also support for updating the definition of 'attendance' to reflect the different ways that education can be provided and the different attendance requirements of some education providers. In particular, submissions were supportive of this amendment enabling more flexible education options for students who would benefit from them.
- Several submissions stated that this amendment needs to be supported by guidance about what constitutes a flexible learning option and the situations in which they can be accessed.
- It was also suggested that a new definition of attendance should explicitly state that in some situations, attendance can be online rather than in person, to provide clarity around online attendance for distance education and remote learning.

### Update and clarify 'priority enrolment areas' and the 'right to choose a suitable educational environment'

- There was general support for providing greater clarity about what is meant by a priority enrolment area for government schools and how they operate.
- Some submissions emphasised the continuing need for flexibility in allowing exemptions to enrolment based on priority enrolment areas. We also heard that any changes to priority enrolment areas in the Act need to be supported by clear advice on the Education Directorate website.
- There was a consistent view that the current Act's statement on the right to choose a suitable educational environment needs updating to provide greater clarity.
- Some submissions stated that referring to this choice as a 'right' is confusing and that an alternative term would make this statement clearer.

### Clarify what is a reasonable excuse for attendance, participation and information and compliance notices

- We heard that there is general support for clarifying what is meant by a reasonable excuse in the Act. Many responses from stakeholders and the community had suggestions about how our draft list of reasonable excuses (included in the [YourSay Conversations survey](#)) could be expanded and how this amendment should be implemented.
- Several submissions emphasised that if a list of reasonable excuses is included in the Act it should not be exhaustive. These submissions stressed that there needs to be flexibility to allow for decisions about reasonable excuses to be made on a case-by-case basis at a school level.
- There was a suggestion that the clarification of reasonable excuses also include guidance about who is responsible for making decisions about whether a reasonable excuse is accepted.
- Several submissions mentioned the inclusion of family holidays as a reasonable excuse for not attending school. Some felt family holidays would inevitably result in students taking time away from school, but it was noted by many that it is important that students are not disconnected from education for extended periods of time as a result of this.
- We heard that the draft list of reasonable excuses would benefit from some additional options being included. This included the suggestion that in some circumstances, school refusal should be considered a reasonable excuse for not meeting attendance requirements. We also heard that reasonable excuses should allow for non-attendance in some situations where a student has been impacted by family or domestic violence. Other responses suggested that the list of



medical reasons should be expanded to explicitly mention mental health and appointments for students attending therapy sessions.

### **Enable flexible attendance requirements to be directed**

- We heard that there is support for flexible student attendance requirements to be directed, with strong safeguards.
- Responses which supported the introduction of directed flexible attendance requirements were in favour of implementing them as an additional measure in situations where supports such as positive behaviour management plans, including reasonable adjustments, have been implemented and are proving ineffective.
- Some stakeholders and members of the community expressed concern about how this would be applied and the potential impact it could have on vulnerable students, including those with a disability.
- This feedback emphasises that it is critical that there are robust safeguards around the use of flexible attendance requirements which would apply to all school sectors. Several responses suggested that these safeguards should include measures to ensure procedural fairness, including that the views of parents and students are considered. We also heard that there needs to be clear processes around decision making, the length of time a direction can be issued for and the need for regular reviews to be undertaken.
- Several responses also highlighted the need for clear and legally enforceable guidance about when a flexible attendance requirement could be directed by a school. These responses also suggested that key terms proposed to be used in decision making for flexible attendance requirements should be clearly defined.
- We heard that there is concern about the impact that flexible attendance requirements could have on parents if children are directed to learn from home. Several of these responses supported the proposal that in situations where it is not appropriate for a flexible attendance requirement to direct a student to learn from home, this direction should instead allow for flexible attendance in another area of the school, or at an alternative location.
- There was a general view, particularly from stakeholders, that the term 'flexible attendance' does not fully capture what is intended by this amendment and suggested that a new term be developed instead.

### **Procedures to encourage attendance at school**

- Stakeholders and the community strongly favoured a support-based approach to encourage student attendance, by removing the current compliance-based role the Act gives to authorised persons.
- Responses suggested that someone with experience working with children, such as a youth worker, or someone with training in mental health support, such as a school counsellor, would be best placed to encourage students who are not attending to re-engage with school.
- Others suggested that the Education Directorate develop a specialised wellbeing officer role to encourage attendance.
- Many responses emphasised that this role encouraging attendance needs to be filled by someone based at each school, so that students are engaging with someone familiar to them and who has direct knowledge of their school environment.
- Several responses emphasised the need for those acting to encourage attendance to have specific knowledge or training about school refusal and the complexities of responding to these situations.

### **Requiring confirmation of a student's next enrolment destination**

- There was strong support among both stakeholders and the community for the intent behind this amendment, which is to help the ACT Government ensure that children stay connected to education regardless of their situation.





- Submissions focused on how this amendment would be implemented. In particular, several responses suggested that any requirement to report a student's next enrolment destination should be made to the Education Directorate directly through a centralised reporting process rather than to the school a child is being unenrolled from.
- These responses suggested that a centralised process for reporting new enrolment destinations would be a more appropriate mechanism for parents who have experienced a relationship breakdown with the school they are unenrolling their child from. We also heard that a secure centralised reporting process would help alleviate privacy concerns that some parents have about providing this information.
- Some submissions highlighted the need for flexibility in implementing this requirement to report a student's next enrolment destination. This flexibility would be needed to ensure that parents are not required to report this information within a certain period if there are delays in securing a new enrolment for their child. We also heard that there is a need for exemptions when there are legitimate reasons for not reporting, such as when a student is changing schools as the result of domestic or family violence.

### Distance education

- We heard that there is strong support from both stakeholders and the community for schools to be able to provide distance education to ACT students if they wish to do so. There was a consistent view that only allowing distance education to be provided on an equity basis with strict entry criteria is too restrictive.
- Some responses suggested that allowing greater access to distance education would benefit a wide range of students who struggle to learn in a mainstream school setting but cannot currently access a distance education program.
- Other participants expressed concern that some students may be directed to access distance education when a mainstream school setting is not supporting that student's needs. They emphasised the need for strong safeguards to ensure that students are not compelled to access distance education.
- There was consistent support for developing a standard/s for delivering distance education, which would apply equally to both public and non-government schools.
- Some participants suggested that the term 'distance' does not reflect the purpose of distance education in the ACT as it is not intended to provide education to students who are geographically isolated. They suggested that the ACT Government either develop a new term which better reflects how distance education operates in the ACT or provide a clear and easily accessible definition.

## WHAT'S NEXT?

**The ACT Government will now consider and evaluate the feedback received from the community and stakeholders during the consultation.**

This feedback will be used to inform the final scope of the Bill. The Government will then begin drafting the Bill in the second half of 2023.

Further consultation on the draft Bill will occur in early 2024 with stakeholder groups, before it is introduced to the Legislative Assembly.

To find out more about this phase of education legislation reform and other initiatives, policies and projects in Canberra visit [www.yoursay.act.gov.au](http://www.yoursay.act.gov.au).



**YOUR SAY**



To find out more about projects, policies and news in the ACT Education Directorate visit [www.education.act.gov.au](http://www.education.act.gov.au) or follow us on [Facebook](#), [Twitter](#) or [Instagram](#).

## Key Timings

### Step 1 – 26 April 2023

YourSay consultation opened and public consultation commenced.

### Step 2 – 6 June 2023

YourSay consultation closed.

### Step 3 – September 2023

Listening Report released.

### Step 4 – Second half of 2023

The Bill is drafted, subject to government decisions.

### Step 5 – Early 2024

Further stakeholder consultation on a draft bill.

### Step 6 – First half of 2024

The Bill is introduced in the Legislative Assembly.

## THANK YOU FOR YOUR FEEDBACK

**3196**

Our YourSay page was viewed 3196 times

**2381**

Our discussion papers were downloaded 2381 times

**84**

We received 84 responses to our YourSay survey

**16**

We received 16 written submissions from stakeholders and the community

**12**

We received 12 contributions on the YourSay message board

**8**

We held 8 consultation sessions and forums with community organisations and key stakeholders

[yoursay.act.gov.au](http://yoursay.act.gov.au)

