

Budget Estimates 2024-25 – Supplementary Hearings

Portfolio Committee No 3 – Education

Education and Early Learning, Western Sydney (Car)

Hearing: 2 December 2024 - Supplementary Questions

NSW Public High Schools Mobile Phone Ban

QUESTION

1. Please provide a breakdown of which option high schools are choosing for mobile phone storage at the start of the school day to comply with the NSW Government's mobile phone ban. How many schools are using:

- (a) Off and away (in bags)**
- (b) Phones in lockers**
- (c) Phones in pouches**
- (d) Phones collected and stored in classroom**
- (e) Phones stored in school office**

ANSWER

Schools can use their funding if they chose to purchase mobile phone storage (eg. pouches, lockers etc). Information on local choices is not held centrally.

QUESTION

2. Please provide the full details of costs for Ashfield Boys High School of purchasing and installing mobile phone lockers.

ANSWER

Please see answer to transcript question 21.

QUESTION

3. How much money has the NSW Department of Education allocated within the budget to support the mobile ban in public high schools across NSW?

ANSWER

Please see answer to supplementary question 1.

Anti-Bullying – NSW Schools

QUESTION

4. How do NSW schools address reports of bullying in their relevant school environment?

ANSWER

As part of the Student Behaviour policy, released in from Term 1 2024, NSW public schools develop their own School Behaviour Support and Management Plan, which outlines how they will operationalise the policy, including how they will identify, prevent and respond to student behaviour. This includes bullying and cyberbullying. Each public school must develop, publish and begin implementing their School Behaviour Support and Management Plan (SBSMP) from Term 1 2025.

Schools are required to follow established procedures to ensure incidents are documented accurately and, where necessary, escalated appropriately. This includes:

- documenting reports of bullying, investigations, and outcomes.
- recording incidents in the department's *Sentral* or other approved student management systems
- including details about the nature of the bullying and the actions taken to address it.

Bullying Prevention and Response Strategies

Schools are encouraged to adopt proactive and reactive strategies, including:

Proactive strategies:

- Teaching students about respectful behaviour and relationships through curriculum programs.
- Implementing peer support programs and student leadership initiatives.
- Engaging parents and the broader school community in anti-bullying efforts.

Reactive strategies:

- Investigating and responding promptly to reports of bullying.
- Using restorative practices to repair relationships.
- Applying appropriate consequences aligned with the SBSMP.

Reporting mechanisms

Schools should provide clear and accessible mechanisms for students, parents, and staff to report bullying. These mechanisms include:

- Face-to-face reporting to teachers or school leaders.
- Anonymous reporting through suggestion boxes or online forms where available.

Investigation process

When bullying is reported:

- The school investigates the incident thoroughly, gathering information from all parties involved.
- Staff members follow the principles of procedural fairness.

- Strategies are implemented to support the child that has been bullied and address the behaviour of the student who is engaging in the bullying behaviour.

Support for affected students

- Students that have been subject to bullying are provided with counselling and support services, if needed.
- Programs are implemented to help students develop skills to manage and respond to bullying.
- Students who have bullied are provided with behavioural interventions aimed at addressing the root causes of their actions.

Engagement with parents and caregivers

Schools communicate with parents about their anti-bullying practices and strategies, aligned to department policy and procedures. Parents are encouraged to:

- Report any concerns regarding bullying to the school.
- Collaborate with the school to support their child.

Monitoring and evaluation

Schools regularly review their SBSMP to ensure effectiveness. Feedback from students, staff, and the school community is considered during this review.

QUESTION

5. Are these incidents recorded and reported to NSW Department of Education?

ANSWER

Please see the answer to supplementary question 4.

Additionally, where the bullying incident/s results in a suspension, this information is collected by the department. In specific cases, schools are required to report incidents to the department via the department's Incident Notification and Response System (INRS) or other designated channel. These include:

- **Serious or repeated bullying** that significantly impacts a student's safety, wellbeing, or ability to learn.
- **Incidents involving criminal behaviour** (e.g. physical assault, threats or cyberbullying that violates laws).
- **Child protection concerns** that may require notification to external authorities like the NSW Police or Department of Communities and Justice.

If bullying raises child protection concerns (e.g. involving physical or emotional abuse), school staff are mandated to report the matter to the relevant authorities under the *Children and Young Persons (Care and Protection) Act 1998*. This may include notifying the Department of Communities and Justice or law enforcement.

QUESTION**6. Are these incidents recorded and reported to NSW Police?****ANSWER**

If bullying behaviour constitutes a criminal offence, schools are required to report the incident to the police. Examples include physical assault, threats or intimidation, harassment or stalking, property damage or theft, sexual harassment or assault, and cyberbullying.

Under the *Child Protection (Working with Children) Act 2012* and the *Crimes Act 1900 (NSW)*, incidents involving abuse, harm, or exploitation may also trigger mandatory reporting obligations to the police, particularly if the victim is at risk of significant harm.

QUESTION**7. Does the school have a duty of care to students to address reports of bullying?****ANSWER**

Yes, the department has a non-delegable duty of care to take reasonable steps to prevent reasonably foreseeable harm to students.

QUESTION**8. What disciplinary measures are available to the NSW Department in addressing bullying?****ANSWER**

The Department of Education provides a range of disciplinary measures that schools can use to address bullying. These measures are designed to hold students accountable for their actions, prevent further bullying, and ensure a safe and supportive learning environment for all students. The approach emphasises both corrective action and education to address the root causes of bullying behaviour.

Under the Student Behaviour policy, public schools have the discretion to apply appropriate behaviour management actions to respond to student bullying incidents. In addition to a range of school-based strategies and supports, actions available to schools and principals include detention or reflection, formal caution, suspension or expulsion.

QUESTION

9. Does suspension form part of this discipline?

ANSWER

Suspension is a behaviour management action available to principals in response to student bullying incidents. The principal has the discretion to decide whether suspension is an appropriate action, considering a range of factors including student and school factors and context.

QUESTION

10. What course of action is then followed relating to:

(a) A suspected perpetrator?

(b) A suspected victim?

ANSWER

The department does not use the language of perpetrator or victim in relation to students.

A successful suspension resolution involves a plan for supports and strategies to enable students to return to school with appropriate supports. Where required, schools assess identified risks and identify and implement strategies to eliminate or minimise identified risks.

Students who have been bullied or impacted by bullying are offered necessary supports. Student directly impacted by behaviour leading to a suspension are to be informed of a student returning to school prior to their return.

QUESTION

11. Does the school inform parents relating to their child(ren) suspected perpetrator(s) of bullying?

ANSWER

The department does not use the language of perpetrator or victim in relation to students. To comply with the Student Behaviour policy, if a student is placed on a formal caution, suspension or a notice of potential expulsion, the Student Behaviour policy outlines notification requirements for parents.

Other local notifications may be made depending on a School's Behaviour Support and Management Plan and the individual circumstances of an incident.

Resources for parents in relation to bullying or cyberbullying also exist on the department's website at <https://education.nsw.gov.au/schooling/schooling-initiatives/anti-bullying>.

QUESTION

12. Does the school inform parents relating to their child(ren) suspected victim(s) of bullying?

ANSWER

It is a school's responsibility to ensure the safety of its students and to inform parents if their child is suspected of being a bullying victim. This allows parents to support their child's social and emotional skills and how to respond appropriately to bullying.

Resources for parents in relation to bullying or cyberbullying also exist on the department's website at <https://education.nsw.gov.au/schooling/schooling-initiatives/anti-bullying>.

QUESTION

13. In the event of repeated reports of bullying what further action would be taken?

ANSWER

In the event of repeated reports of bullying the following actions may be taken:

- Staff discussions, staff mentoring, detention and timeout are planned interventions to allow students opportunities to reflect on and regulate emotions and behaviour.
- Formal cautions provide an opportunity for the student and their parents or carers to understand the impact of the student's behaviour or behaviours of concern and to engage in positive behaviour supports and strategies to address the behaviour or behaviours.
- Suspension can be a critical safeguard that principals may use as a behaviour management intervention when a behaviour or behaviours of concern pose an unacceptable risk to others or to teaching and learning. The purpose of suspension is to allow the school to implement appropriate supports to address the student's complex and challenging behaviour or behaviours, mitigate any unacceptable risks to students and staff and enable the student's return as soon as is appropriate.
- In the most serious of circumstances, where behaviour management interventions including suspension and other risk management strategies have not been successful in managing serious behaviour or behaviours of concern, expulsion is an option available to schools. The gravity of the circumstances requires that particular emphasis be given to procedural fairness.

QUESTION

14. In what circumstances would a high alert or priority be signalled related to repeated bullying reports?

ANSWER

A high alert or priority would be signalled in the following circumstances related to repeated bullying reports:

1. **Escalating severity:** If the bullying becomes more severe, involving physical harm, threats, or emotional abuse, it will warrant immediate attention.
2. **Threats of retaliation:** If there are concerns about retaliation against the student being bullied, either immediately or in the future, heightened attention is needed to protect the student.
3. **Impact on well-being:** If the student being bullied shows signs of significant distress, such as anxiety, depression, self-harm, or a decline in academic performance, a high priority response is necessary.
4. **Lack of resolution:** If previous interventions or attempts to address the bullying have been ineffective, or if the bullying continues despite action taken, it will signal the need for further investigation and a more urgent response.
5. **Involvement of multiple students:** If the bullying involves multiple students or is part of a broader pattern affecting other students, it may require more intensive intervention.
6. **Inadequate follow up:** If there is limited effectiveness of follow up on previous bullying reports or inconsistent support provided to the student being bullied or the student engaging in the bullying behaviour, this would indicate a need for urgent action.

QUESTION

15. Is bullying addressed as a compulsory component of initial teacher education programs and included in the mandatory professional development programs for practising teachers?

ANSWER

The current NSW Education Standards Authority (NESA) Elaborations in Priority Areas policy addresses anti-bullying education under Classroom Management. Initial Teacher Education (ITE) providers must demonstrate evidence in this area when submitting ITE programs to NESA for accreditation.

Teachers are encouraged to complete PD in priority areas that have been identified by NSW education stakeholders, which includes student/child mental health.

NSW public school practising teachers complete the code of ethics and conduct course, which contains direct references to bullying:

- There are 4 direct references to bullying in Code of Ethics module 2 in the content and 2 knowledge checks.
- There is also one reference to roles and responsibility for reporting where it is implied as a part of the ethical framework.
- There is 1 reference to bullying and harassment on the Department of Education's intranet page in a new suite of mandatory learning commencing 31 January 2025.

QUESTION

16. Are anti-bullying education and teaching resources provided to NSW schools?

ANSWER

Anti-bullying education and teaching resources are provided to NSW schools to enable a whole school approach to anti-bullying.

Schools are using a range of resources to support the delivery of anti-bullying education across all stages including explicitly teaching students about how diversity and respectful relationships can help to prevent bullying in the classroom. These units cover Diversity across Early Stage 1, Stage one, and Stage 2. In Stage 3 the focus is on Diversity and Difference, Stage 4 Relationships and Wellbeing and Stage 5 Stage 5 Respectful Relationships.

Multiple resources are added and updated regularly on the department's website and dedicated Digital Resource Hub.

The collection of resources to support schools to prevent and respond to student bullying behaviour includes strategies provided for students and staff to report, understand, and respond to bullying. The Bullying No Way! Working in the classroom resource provides useful information to help educators create safe and supportive discussions around bullying.

Resources for educators on anti-bullying are available on the department's website at <https://education.nsw.gov.au/schooling/schooling-initiatives/anti-bullying/educators>. Information about the resource is also included, covering development, consultation and review.

QUESTION

17. How long have these resources been available?

- (a) If so, in what form?**
(b) Please provide copies of materials.

ANSWER

Please see answer to supplementary question 16.

QUESTION

18. When were they last reviewed or updated?

ANSWER

Please see answer to supplementary question 16.

QUESTION

19. What consultation was held and with whom during the development of these resources?

ANSWER

Please see answer to supplementary question 16.

QUESTION

20. What is the uptake of these resources by NSW schools?

ANSWER

The department does not have specific data on the uptake of all the available resources, however feedback received by the Team Around a School indicates they have been well received by schools.

The department receives data annually about NSW public schools take up and registration for the “Bullying, no way!” National Week of Action resources from the Queensland Department of Education, which leads the Australian Schools Anti-bullying Collective, in which all Australian education sectors participate.

QUESTION

21. Does the NSW Education Department centrally collect information on the effectiveness of its anti-bullying practice and response?

ANSWER

Schools regularly review their anti-bullying practices to ensure effectiveness. Feedback from students, staff, and the school community is considered during this review.

As part of NESA school registration compliance, schools provide evidence of meeting requirements around school discipline and behaviour management, including how they identify and respond to bullying behaviours.

At a school level, Tell Them From Me survey data provides student, parent and staff feedback regarding bullying for schools to use in their planning, implementation and evaluation of anti-bullying strategies within their school.

QUESTION

22. Is there any research or measurements undertaken as to the effectiveness of the Government's anti-bullying approach and available resources?

ANSWER

Please see answer to supplementary question 21.

QUESTION

23. Does the NSW Government contribute recurrent financial support to the Kids Helpline or other alternate support services?

ANSWER

Financial contributions made by the Department of Education are published in its annual reports at <https://education.nsw.gov.au/about-us/strategies-and-reports/annual-reports>.

QUESTION

24. Are school counsellors available to schools to address bullying outside the teaching staff?

ANSWER

Every student has access to a professional member of the school counselling service. School counsellors and school psychologists are available to provide psychological counselling to students individually and in groups. There are over 2,000 staff dedicated to supporting and improving the wellbeing of children and young people at schools.

QUESTION

25. Who provides the counselling?

ANSWER

School counsellors and school psychologists are available to provide psychological counselling to students individually and in groups.

QUESTION

26. Are additional counsellors available if required outside the teaching staff?

ANSWER

Please see answer to supplementary question 24.

QUESTION

27. Is training provided to NSW teachers specific to anti-bullying?

ANSWER

NSW teachers can access a range of training to support student behaviour, behaviour support planning, de-escalation of student behaviour, anti-racism and restorative practice.

The department also hosts the eSafety 'Responding and reporting critical online incidents' professional learning through the MyPL platform for school staff.

QUESTION

28. Does the NSW curriculum cover anti-bullying education for students?

ANSWER

Yes. The NSW curriculum covers anti-bullying education through mandatory study of Personal Development, Health and Physical Education (PDHPE) from Kindergarten – Year 10.

In the PDHPE K–10 syllabus (2018), students learn about harassment, bullying, abuse, discrimination, and upstander behaviours that promote the health, safety and wellbeing of themselves and others.

In the new PDHPE K–6 and 7–10 syllabuses (2024) to be implemented by 2027, anti-bullying education, including in online environments, has been strengthened and is essential learning.

QUESTION

29. Do NSW Schools work with NSW Police relating to anti-bullying education and training?

ANSWER

Schools often reach out to their local Youth Command and Police Youth Liaison Officers for support in managing serious issues, including those related to bullying.

These specialist police staff often attend school events and supplement school programs. Schools work towards developing excellent relationships with the Local Area Command, Youth Liaison Officer working in partnership delivering life skills programs and group sessions with students to support the management of a particular situation/concern or covering topics required by the school.

Some Local Area Commands hold regular Principal forums, up to 4 per year and cover various topics including bullying and cyberbullying.

QUESTION

30. How is this alliance or partnership formed?

ANSWER

Please see answer to supplementary question 29.

QUESTION

31. Do NSW Police play a role in educating students on bullying?

ANSWER

Please see answer to supplementary question 29.

QUESTION

32. Is there any feedback on the effectiveness of this partnership relating to anti-bullying?

ANSWER

Please see answer to supplementary question 29.

QUESTION

33. Do NSW Police visit NSW schools on reports of alleged bullying?

ANSWER

Please see answer to supplementary question 29.

QUESTION

34. How is cyber-bullying addressed in NSW Government Schools?

ANSWER

The Department of Education rejects all forms of bullying behaviour including online (or cyber) bullying.

As part of the Student Behaviour policy, released in from Term 1 2024, schools develop their own School Behaviour Support and Management Plan, which outlines how they will operationalise the policy, including how they will identify, prevent and respond to student behaviour, which includes bullying and cyberbullying. Each school must develop, publish and begin implementing their School Behaviour Support and Management Plan from the beginning of Term 1 2025.

Schools are encouraged to access the Spotlight on Cyberbullying toolkit on the eSafety website to support concerns they have about specific cyberbullying topics.
<https://www.esafety.gov.au/educators/spotlight-on-cyberbullying>

Forced Mergers in Same Sex Schools**QUESTION**

35. Can the department confirm whether there are any plans to merge Sydney Boys High School and Sydney Girls High School into a co-educational institution?

ANSWER

The NSW Government is committed to offering all families a co-educational high school option. This means that every student in NSW will be guaranteed a place at a designated co-educational public high school by 2027.

Details about co-educational high school consultations is available at
<https://education.nsw.gov.au/schooling/parents-and-carers/going-to-school/high-school>.

QUESTION

36. Can the department confirm whether there are any plans to merge Balgowlah Boys High School into a co-educational institution?

ANSWER

Please see answer to supplementary question 35.

QUESTION

37. Can the department confirm whether there are any plans to merge Mackellar High School into a co-educational institution?

ANSWER

Please see answer to supplementary question 35.

QUESTION

38. Can the department confirm whether there are any plans to merge East Hills Boys and East Hills Girls School into a co-educational institution?

ANSWER

Please see answer to supplementary question 35.

QUESTION

39. What specific criteria does the department use to determine whether a single-sex school should be transitioned to a co-educational model?

ANSWER

Please see answer to supplementary question 35.

QUESTION

40. Has the department conducted any studies or consultations to determine the long-term viability of single-sex schools in the NSW public education system?

ANSWER

The NSW system has more unique offerings than any other Australian jurisdiction. The majority of NSW public high schools are co-educational, however NSW also has a number of single-sex public high schools. Both co-educational and single-sex high schools will continue to be part of the education system in NSW.

With regards to expanding access to co-education, any local changes are only made after comprehensive consultation with the relevant local community about their preferences. Each local community is different and deserves to have a say on their local schools.

QUESTION

41. What assurances can the department provide to parents and communities that no forced mergers will occur without broad community support and consultation?

ANSWER

Please see answer to supplementary question 40.

QUESTION

42. What processes are in place to ensure comprehensive community consultation before deciding on merging single-sex schools?

ANSWER

Please see answer to supplementary question 40.

QUESTION

43. How does the department assess the impact of transitioning from single-sex to co-educational models on student performance and well-being?

ANSWER

Please see answer to supplementary question 40.

QUESTION

44. What resources and support systems are being provided to schools undergoing these transitions to ensure minimal disruption to students and staff?

ANSWER

Please see answer to supplementary question 40.

QUESTION

45. How does the department plan to accommodate parents and students who prefer single-sex education considering these mergers?

ANSWER

Parents and students who wish to access single-sex education offerings can submit an out-of-area enrolment application to their preferred school.

QUESTION

46. How do current and projected enrolment numbers at single-sex schools compare to those at co-educational schools in the same catchment areas?

ANSWER

Please see answer to supplementary question 40.

QUESTION

47. What are the estimated costs associated with transitioning a single-sex school to a co-educational model, including infrastructure changes and staff reallocation?

ANSWER

Please see answer to supplementary question 40.

QUESTION

48. Are these costs factored into the department's current budget, and how will they impact funding for other schools in the area?

ANSWER

Please see answer to supplementary question 40.

QUESTION

49. What mechanisms are in place for stakeholders to provide feedback on the decision-making process, and how will the department address concerns raised during appropriately timed consultations?

ANSWER

Please see answer to supplementary question 40.

QUESTION

50. How will the department ensure transparency in reporting the outcomes of consultations and decision-making processes related to these mergers?

ANSWER

Please see answer to supplementary question 40.

QUESTION

51. How does the Department respond to research and evidence suggesting that girls in single-sex school environments often experience improved academic outcomes, greater participation in STEM subjects, and higher levels of confidence compared to their counterparts in co-educational settings?

ANSWER

Please see answer to supplementary question 40.

QUESTION

52. How is this evidence being factored into decisions regarding the potential merger of single-sex schools, particularly those with strong records of academic or extracurricular success?

ANSWER

Please see answer to supplementary question 40.

Code of Conduct

QUESTION

53. What is the average duration for investigating a reported breach of the Code of Conduct?

ANSWER

For breaches relating to employee misconduct that are referred to the Professional and Ethical Standards (PES) Directorate, the average investigation time (in days) between 2020 and 2024 (incomplete year) was 346 days. This includes investigations that may have been placed on hold by PES due to the involvement of statutory agencies such as NSW Police, the Independent Commission Against Corruption, the Department of Communities and Justice or the Office of the Children's Guardian.

QUESTION

54. How does the department ensure impartiality in investigations of alleged misconduct?

ANSWER

The Professional and Ethical Standards Directorate (PES) employs trained investigators who have relevant experience in criminal and/or administrative investigations and expertise in areas such as fraud, corruption and child protection.

The Code of Ethics and Conduct sets out the requirements of all staff in relation to declaring and managing conflicts of interest.

PES has an internal conflicts of interest register and declared conflicts of interest are appropriately managed. PES audits and actively manages the access of PES staff to its internal case management system.

QUESTION

55. Are external agencies ever involved in investigating breaches, and under what circumstances?

ANSWER

External agencies including the NSW Police, Independent Commission against Corruption, the NSW Ombudsman and the Office of the Children's Guardian, are enabled under their legislation to investigate the relevant conduct - such as criminal conduct, wrongdoing, corruption and reportable conduct.

The circumstances under which these agencies conduct investigations of their own motion is a matter for them. PES co-operates with all statutory agencies who are investigating under their own powers.

QUESTION

56. What training do investigators receive to handle cases involving sensitive issues like child protection?

ANSWER

Investigators come to the Professional and Ethical Standards Directorate (PES) with a range of tertiary qualifications including law, policing, social work, psychology, criminology and administrative investigations, and a range of experience including in oversight agencies, police, private legal practice, teaching, and child protection.

PES provides comprehensive induction training to all investigators. This training includes time spent in schools to learn about school processes for incident reporting, financial management, and the school environment. Professional learning opportunities are also provided.

QUESTION

57. How does the department address conflicts of interest during investigations?

ANSWER

Please see answer to supplementary question 54.

QUESTION

58. If concerning politically related material, such as anti-Jewish and therefore racist, content is found on a teacher's private social media is there an obligation to report this to the police?

ANSWER

All allegations of criminal conduct are referred to police.

QUESTION

59. What range of disciplinary actions is available for staff found in breach of the Code of Conduct?

ANSWER

If allegations of employee misconduct are sustained following an investigation by the Professional and Ethical Standards Directorate, appropriate action is taken.

All matters are considered individually on their merits by a delegated decision maker. The form of action taken is proportionate with the individual matter. The care and protection of children is the paramount concern.

Remedial options include:

- counselling
- training and development
- monitoring of conduct
- a warning
- a transfer
- induction
- mentoring
- staff rotation
- referral to relevant policies.

Disciplinary options include:

- dismissal
- direction to/allowed to resign
- salary reduction or demotion
- a fine
- a caution and/or reprimand.

QUESTION

60. How many staff members have been dismissed due to breaches in the past two years?

ANSWER

The department proactively releases information in relation to Teacher Conduct and Performance on an annual basis. This is available at <https://data.nsw.gov.au/data/dataset/nsw-education-teacher-conduct-and-performance>

QUESTION

61. Are there instances where staff retained their positions despite serious breaches?

ANSWER

If allegations of employee misconduct are sustained following an investigation by the Professional and Ethical Standards Directorate, appropriate action is taken. All matters are considered individually on their merits by a delegated decision maker.

The form of action taken is proportionate with the individual matter. The care and protection of children is the paramount concern.

QUESTION

62. How does the department ensure consistency in disciplinary actions across different cases?

ANSWER

The Professional and Ethical Standards Directorate (PES) delegated decision makers are senior officers experienced in administrative decision making. When making decisions, all delegated decision makers consider the facts and circumstances of each case, the case law, and relevant precedents when deciding on the correct and proportionate outcome.

The Executive Director, PES is the only PES officer delegated by the Secretary to demote, dismiss or direct an employee to resign. If the Executive Director, PES is considering these options, the matter must be referred to the Disciplinary Advisory Panel (DAP) to seek its views.

The DAP reviews all the documentation on which the findings of misconduct were made and provides advice to the Executive Director, PES regarding appropriate action. The DAP is composed of a rotating membership and includes a senior executive from Human Resources, an Executive Director/Director, Educational Leadership from Public Schools, two PES Directors, Investigation and a PES Legal Officer.

QUESTION

63. What support is provided to victims affected by staff misconduct?

ANSWER

The Professional and Ethical Standards Directorate (PES) ensures alleged victims are well supported by school leadership. PES ensures all parents and carers are informed about any allegations relating to the student. PES keeps all investigation stakeholders regularly informed about the progress of investigations.

PES also provides information and support to students and their families about avenues for redress for any harm they may have suffered.

QUESTION

64. How does the department address cultural or systemic issues that may lead to breaches?

ANSWER

The Professional and Ethical Standards Directorate (PES) collects data about the types of allegations of misconduct it receives and investigates. From time to time, a PES investigation may identify underlying systemic issues that may have been relevant to the alleged conduct. The delegated decision maker takes these issues into account when deciding on the appropriate disciplinary outcome.

If there are systemic issues evident that could be addressed through policy or procedural change, PES raises these issues with the relevant senior executive.

Teacher Vacancies**QUESTION**

65. In the media release issued on 27 August 2024, the teacher vacancy rate for the start of the term was shared. Could you provide the vacancy rates for the following terms and years?

- (a) Term 3, 2024
- (b) Term 2, 2024
- (c) Term 1, 2024
- (d) Term 4, 2023
- (e) Term 3, 2023
- (f) Term 2, 2023
- (g) Term 1, 2023
- (h) Term 4, 2022
- (i) Term 3, 2022
- (j) Term 2, 2022
- (k) Term 1, 2022

ANSWER

Teacher vacancies have changed from 2,421 as at Term 3 2022 to 1,698 as at Term 3 2024.

Suspensions and Expulsions**QUESTION**

66. How many students were suspended from 1 July 2023 to 30 June 2024, and what were the top three reasons?

ANSWER

2023 suspensions and expulsions data is available on the Data.nsw website at <https://data.nsw.gov.au/data/dataset/nsw-education-suspensions-and-expulsions-in-nsw-government-schools>

Semester 1 2024 data will be released publicly on the Data.nsw website in early 2025.

QUESTION

67. In metropolitan schools, how many students were suspended during the same period, and what were the top three reasons?

ANSWER

Please see answer to supplementary question 66.

QUESTION

68. How many students were suspended in regional schools between 1 July 2023 and 30 June 2024, and what were the top three reasons?

ANSWER

Please see answer to supplementary question 66.

QUESTION

69. How many students were expelled from 1 July 2023 to 30 June 2024, and what were the top three reasons?

ANSWER

Please see answer to supplementary question 66.

QUESTION

70. How many students were expelled in metropolitan schools during this time frame, and what were the top three reasons?

ANSWER

Please see answer to supplementary question 66.

QUESTION

71. How many students were expelled in regional schools between 1 July 2023 and 30 June 2024, and what were the top three reasons?

ANSWER

Please see answer to supplementary question 66.

Eastern Suburbs Schools

QUESTION

72. Has the Government had any meetings with the owners of the Edgecliff Centre, Longhurst Group, about purchasing the site to build a public high school?

ANSWER

Please see answer to transcript question 59.

QUESTION

73. Does the Government have any plans to purchase the Edgecliff Centre to build a public high school?

ANSWER

Please see answer to transcript question 59.

QUESTION

74. Does the Education department have any plans to build a brand-new secondary school in Sydney's eastern suburbs?

ANSWER

Please see answer to transcript question 59.

QUESTION

75. What planning has been done to ensure there is sufficient public-school capacity in the eastern suburbs into the future.

ANSWER

Please see answer to transcript question 59.

QUESTION

76. Does Education department modelling consider movement away from expensive private schooling due to economic pressures.

ANSWER

Please see answer to transcript question 59.

QUESTION

77. How much education infrastructure spending is projected for the electorates of Coogee and Vaucluse over the immediate budget cycle and longer term?

ANSWER

The NSW Government is committed to deliver a record \$1.5 billion investment in maintenance and local upgrades at public schools across NSW.

The department works with schools to identify where new facilities and upgrades are needed to provide the best possible learning and teaching environments at all NSW public schools. The department's planned maintenance budget is allocated to schools across NSW on a needs basis.

Expenditure on major works upgrades is publicly available in the NSW Budget papers at <https://www.budget.nsw.gov.au/sites/default/files/2024-06/Budget-Paper-No-3-Infrastructure-Statement-2024-25.pdf>

Racism

QUESTION

78. On the Department of Education's website, the resource entitled "Understanding racism" refers to the Australian Human Rights Commission definition of racism and states "Teaching and learning practices that do not respect the cultural, linguistic or religious identities of students and staff are also a form of racism". In the case of the Condell Park High School student that I raised at the hearing, a student was punished for wearing a cultural item to a

graduation ceremony. The cultural item is an item that has been worn at special events of this kind for at least centuries by Palestinian people and is a core part of the cultural identity of the student. Other students at the event wore items from their cultural backgrounds and they were not told to take off, or punished afterwards for having worn them - only the Palestinian student.

(a) Why has the Department not called out these circumstances as a clear case of racism and in breach of its apparent expectations of students and staff in its “Understanding racism” guidance and asked the school to make amends?

(b) Why is the Department failing to show leadership in relation to the war in Gaza and push back against the ignorant concept of Palestinian cultural dress as being political rather than cultural and acknowledge context in the interpretation of symbols?

(c) Why is the Department not seeking to educate students and staff about the facts instead of allowing racism to go unchecked in our schools?

(d) Has the Department sought legal advice in relation to potential liability resulting from the discriminatory impact of its communications to schools in relation to the war in Gaza (including the Department’s communique entitled “Supporting the school community during the current conflict in the Middle East”)?

(e) Why is the Department seeking to politicise the wearing of cultural items from one country in a conflict and not another, in breach of its own statements about being ‘neutral’ about the conflict?

ANSWER

The department is unable to comment on the matter relating to a student at Condell Park High School because the matter is currently before the Australian Human Rights Commission.

ECEC

QUESTION

79. It has been reported that the Australian Skills Quality Authority (ASQA) has closed 3 colleges and intends to cancel 17,000 qualifications issued by those institutions, including qualifications in early childhood education. These colleges are Luvium, Gills College and International Institute of Education and Training PTY (IIET).

(a) How many early childhood workers in NSW will be impacted by the cancellation of qualifications?

(b) What will the impact be on ECEC services across the state?

(c) What will the Department be doing to ensure that adequate quality training providers are available to ensure NSW has sufficient ECEC workers?

ANSWER

As at December 2024, less than 150 individuals with cancelled qualifications have been identified as working within the Early Childhood Education and Care (ECEC)

sector in NSW. In all cases, the provider has taken appropriate action to mitigate any risks associated with these individuals. The NSW ECEC Regulatory Authority's response to the cancellation of these registered training providers is ongoing.

In relation to the International Institute of Education and Training Pty Ltd (IJET, trading as EDU VET 40993), the Australian Skills Quality Authority (ASQA) advised that they did not provide qualifications relevant to the ECEC workforce in NSW.

The Department of Education did not fund any of the three RTOs cancelled by ASQA. The department ensures the quality of government funded training delivered under the Smart and Skilled program by selecting training providers through a rigorous application process, managing provider contracts and monitoring performance, and by sharing information with and supporting ASQA.

Under Smart and Skilled there are 47 training providers funded to deliver Certificate III in Early Childhood Education and Care (ECEC) and 34 providers funded to deliver the Diploma in Early Childhood Education and Care in NSW. ECEC qualifications are among the most popular qualifications delivered under Smart and Skilled.

QUESTION

80. Of the 450 FT staff referred to in response to the question about the number of staff in the early childhood regulatory authority, are these staff solely focussed on the early learning sector? Or do they have multiple responsibilities?

ANSWER

Please see answer to transcript question 16.

QUESTION

81. In answers to questions on notice, the department stated there are 197 senior field officers, field officers and investigators. What are the role descriptions of the other 253 FT staff?

ANSWER

Please see answer to transcript question 16.

QUESTION

82. Please provide a breakdown of the distribution of the 450 FT staff by role and by region.

ANSWER

Please see answer to transcript question 16.

QUESTION

**83. In response to questions, the Secretary said the regulatory arm of early childhood sits in the operations area after it was removed from the early childhood division and put into the operations arm of the organisation.
(a) What is the size of the operations arm of the department?**

ANSWER

As at 11 December 2024 the Operations Group is made up of 2,727.89 FTE positions.

QUESTION

**84. Why was the regulatory arm of early childhood taken out of the early childhood division?
(a) Was there a specific incident or policy recommendation to separate them?
(b) Were there suggestions the regulator was compromised?**

ANSWER

As outlined in the hearing, the NSW Early Childhood Education and Care Regulatory Authority is situated at arm's length from related policy teams. In January 2024, the Regulatory Authority moved from the Teaching, Learning and Student Wellbeing division to the Operations division. The move to the Operations division was part of changes made across the department as part of optimising operations and delivering on Our Plan for NSW Public Education. The functions of the Regulatory Authority align with other work undertaken in the Operations Division which also has responsibilities including supporting, promoting and enabling good governance, risk management frameworks, Audit, controls assurance, and fraud and corruption services.

QUESTION

85. Has the regulator ever received complaints about its efficacy or impartiality?

ANSWER

The NSW Early Childhood Education and Care Regulatory Authority has a robust process to manage feedback and complaints. When the regulatory authority receives complaints from services or providers about a decision it has made or about the way

in which a visit was conducted, these are investigated in accordance with the department's complaints policy, available on our website.

QUESTION

86. Since FY19/20, how has the size of the regulatory authority changed?

ANSWER

As at 11 December 2024 the FTE is 435.2. On 1 July 2020, there was 373 FTE.

QUESTION

87. How does the size of the early childhood regulator compare to other states?

ANSWER

The department does not hold information on the size of regulators in other states and territories.

QUESTION

88. As a result of Operation Tenterfield, will the Department be making any organisational or operational changes?

ANSWER

A National Child Safety Review has been conducted by the Australian Children's Education and Care Quality Authority (ACECQA) at the request of the Australian Government. The NSW Regulatory Authority, along with all States and Territories will implement the recommendations arising from the Review, in accordance with decisions of Education Ministers. Recommendation 16 of the Review is that NSW and Queensland will conduct a further review of learnings from Operation Tenterfield in conjunction with the Australian Federal Police.

QUESTION

89. Is the Department conducting a review of child safety arrangements as a result of Operation Tenterfield?

ANSWER

Please see answer to supplementary question 88.

QUESTION

90. During evidence in the context of show cause notices, the Secretary said the regulator's "visitation rates are almost like beyond 90 per cent of the entire sector in a year". Does this mean that the regulator visits 90 per cent of centres or that 90 per cent of centres had show cause notices in a year?

(a) How many times is each centre visited per year?

(b) How does the regulator determine how a show cause notice is addressed?

(c) How is it determined that improvement has taken place; what is the process for demonstrating a show cause notice has been addressed?

ANSWER

a) Please see answer to transcript question 18.

b) and c) A show cause notice is a serious compliance action issued by the NSW Early Childhood Education and Care Regulatory Authority to a provider, service or individual. All responses provided are assessed to determine whether the regulatory authority should proceed with the specified action. This assessment compares the response provided with the evidence gathered during an investigation to determine a proportionate response.

As a part of the assessment of the response the regulatory authority may seek further detail and/or visit the service to determine whether any changes or improvements have been effectively implemented.

This process aligns with the regulatory authority's risk-based approach to regulation.

QUESTION

91. If a show cause notice is issued, does the risk rating for the relevant ECEC provider go up? If so, how many centres are currently on the highest risk rating?

ANSWER

The NSW Regulatory Authority uses a risk-based approach to regulation. That is, it uses a range of data sources, including compliance actions, to determine the risk level of services and then it takes action accordingly. Risk ratings may go up or down depending on the actions taken by services to make improvements.

QUESTION

92. For each calendar year from 2020 to 2024 (to date), and broken down into for-profit services and non-profit services, how many s165 and s166,167, 169, 170 and s171 notices were issued under the Education and Care Services

National Law in NSW for early childhood education and care? Please break these down for each section of the law and limit them to long day care (ie, exclude family day care).

(a) How many notifications were issued in relation to each of those sections?

ANSWER

From 2020 to 2024, there were 4,545 distinct compliance actions issued where 1 or more breaches of the specified regulations were confirmed. Compliance actions may be issued on 1 or more breaches of law section/regulations. Therefore, total breaches against Law/Regulation does not correspond with total compliance actions taken.

Total compliance actions where 1 or more breaches of specified law/regulations were found			
Year	Private for profit	Other management type	Total
2020	425	108	533
2021	541	131	672
2022	792	166	958
2023	1049	197	1246
2024	966	170	1136
Total	3773	772	4545

Breaches by Law/Regulation: Long Day Care - Private for profit					
Law/Regulation	2020	2021	2022	2023	2024
Law 165	109	179	259	408	388
Law 166	83	115	174	266	153
Law 167	281	355	526	624	563
Law 169	75	45	82	114	79
Law 170	4	13	18	17	29
Law 171	1	5	2	7	5

Breaches by Law/Regulation: Long Day Care - Other management types					
Law/Regulation	2020	2021	2022	2023	2024
Law 165	50	50	91	94	71
Law 166	18	29	21	43	37
Law 167	65	70	94	105	83
Law 169	10		3	5	4
Law 170					3

Interpretation: all compliance actions issued since 2020 where Service type = Long day care, and the qualifying breaches (law/regs) exist, data grouped by management types (profit/not-for-profit).

QUESTION

93. For each calendar year from 2020 to 2024 (to date), and broken down into for-profit services and non-profit services, how many Regulation s84 and 77, 78, 79, 82, 83, 87, 89, 92, 99, 160, 165, 166, 170 and 171 notices have been issued? Please break them down for each regulation notice.

(a) How many notifications were issued in relation to each of those Regulation sections?

ANSWER

From 2020 to 2024, there were 3,603 distinct compliance actions issued where 1 or more breaches of the specified regulations were confirmed. Compliance actions may be issued on 1 or more breaches of law section/regulations. Therefore, total breaches against law/regulation does not correspond with total compliance actions taken.

Total compliance actions where 1 or more breaches of specified law/regulations were found			
Year	Private for profit	Other management type	Total
2020	401	181	582
2021	382	160	542
2022	640	262	902
2023	653	264	917
2024	508	161	669
Total	2575	1028	3603

Breaches by Law/Regulation: All service types - Private for profit					
Law/Regulation	2020	2021	2022	2023	2024
Reg 99	34	37	65	84	44
Reg 92	30	27	44	45	30
Reg 89	108	70	94	61	68
Reg 87	36	40	66	64	50
Reg 83				1	
Reg 82			2	4	2
Reg 79	10	6	16	13	7
Reg 78	5	4	10	13	10
Reg 77	67	71	125	152	137
Reg 171	11	6	16	8	11
Reg 170	232	254	385	359	235
Reg 166	1			1	1
Reg 165		9	10	6	5
Reg 160	92	81	225	158	71

Breaches by Law/Regulation: All service types - Other management types					
Law or Regulation Section	2020	2021	2022	2023	2024
Reg 99	27	31	43	61	45
Reg 92	11	15	29	17	11

Reg 89	36	25	37	14	11
Reg 87	18	7	36	23	21
Reg 82			3	1	2
Reg 79	7	3	5	7	3
Reg 78	8		1	3	1
Reg 77	20	4	31	20	19
Reg 171	6		3	3	
Reg 170	94	101	141	136	68
Reg 166			1		
Reg 165	1		2		
Reg 160	35	27	57	37	18

Interpretation: All compliance actions issued since 2020 where the qualifying breaches (law/regs) exist, data grouped by management types (profit/not-for-profit).

QUESTION

94. For each calendar year from 2020 to 2024 (to date), and broken down into for-profit services and non-profit services, how many penalties were issued. Please break these down for each section of the law.

ANSWER

From 2020 to 2024, there were 11,388 distinct compliance actions issued. Compliance actions may be issued on one or more breaches of law section/regulations. Therefore, total compliance action by law/regulation does not correspond with total compliance actions taken.

Total Compliance Actions by Year and sector				
Year	Private for profit	Other management type		Total
2020	1006		645	1651
2021	1094		670	1764
2022	1679		749	2428
2023	2066		890	2956
2024	1949		640	2589
Total	7794		3594	11388

Compliance action by Law/Regulation: All service types - Private for profit					
Law/Regulation	2020	2021	2022	2023	2024
Reg 99	34	37	65	84	44
Reg 98	2	2	2		1
Reg 97	448	296	468	430	404
Reg 96					1
Reg 95	10	11	10	22	7

Compliance action by Law/Regulation: All service types - Private for profit						
Law/Regulation	2020	2021	2022	2023	2024	
Reg 93	13	16	21	37	9	
Reg 92	30	27	44	45	30	
Reg 91	7	4	3	3	2	
Reg 90	70	48	62	52	44	
Reg 89	108	70	94	61	68	
Reg 88	3		2	2		
Reg 87	36	40	66	64	50	
Reg 86	34	38	40	65	42	
Reg 85		3	3	1	1	
Reg 84D					7	
Reg 84C				31	286	
Reg 84B				9	39	
Reg 84A				2	11	
Reg 84	90	125	141	87	63	
Reg 83				1		
Reg 82			2	4	2	
Reg 81	6	17	41	23	2	
Reg 80	32	35	58	58	49	
Reg 79	10	6	16	13	7	
Reg 78	5	4	10	13	10	
Reg 77	67	71	125	152	137	
Reg 76	12	17	25	9	6	
Reg 75	36	45	66	59	48	
Reg 74	22	23	24	30	18	
Reg 73	9	13	8	4	8	
Reg 72		1		3	1	
Reg 56	23	15	32	14	9	
Reg 55	19	19	29	21	10	
Reg 35			1			
Reg 32					1	
Reg 31	1				1	
Reg 274A	8	9	8	18	5	
Reg 274			2			
Reg 272	55	65	116	146	112	
Reg 271	2	4	18	6	4	
Reg 25		2				
Reg 242	2	1				
Reg 191			2	1	1	
Reg 185	83	72	83	87	29	
Reg 183	7	5	6	3	4	

Compliance action by Law/Regulation: All service types - Private for profit					
Law/Regulation	2020	2021	2022	2023	2024
Reg 181	2	2	6	8	7
Reg 180	5	5	7	6	6
Reg 178	1	1			
Reg 177	47	50	71	101	82
Reg 176	8	18	17	19	22
Reg 175	16	8	16	25	16
Reg 174	2	4	3	5	4
Reg 173A				5	17
Reg 173	79	47	70	114	34
Reg 172			1		
Reg 171	11	6	16	8	11
Reg 170	232	254	385	359	235
Reg 169	1	2	3		
Reg 168	137	128	93	129	106
Reg 167		1			
Reg 166	1			1	1
Reg 165		9	10	6	5
Reg 163	1		1		
Reg 162	129	107	116	101	75
Reg 161	50	44	30	28	13
Reg 160	92	81	225	158	71
Reg 159			4	3	5
Reg 158	31	38	38	48	17
Reg 157				2	2
Reg 156	7	4	4	6	8
Reg 155	15	22	42	78	70
Reg 154					2
Reg 153	7	2	2	2	
Reg 152B					1
Reg 152	12	10	6	3	5
Reg 151	96	93	92	123	81
Reg 150	69	60	52	53	30
Reg 149	4	7	1	6	1
Reg 148	4	2		2	
Reg 147	122	127	140	104	66
Reg 146	22	9	10	14	5
Reg 145	9	9	6	51	88
Reg 144		2	5		1
Reg 143B			7	3	
Reg 137			1		

Compliance action by Law/Regulation: All service types - Private for profit						
Law/Regulation	2020	2021	2022	2023	2024	
Reg 136	35	20	51	29	37	
Reg 134			1			
Reg 133		1		1	1	
Reg 132	6	5	5	1		
Reg 131	6	9	8	8	7	
Reg 130	12	2	10	7	4	
Reg 127	1					
Reg 126	35	50	74	87	56	
Reg 124		3	2		4	
Reg 123	35	41	74	62	47	
Reg 122	12	15	29	15	13	
Reg 120	2	5	3	5	3	
Reg 118	50	46	64	51	29	
Reg 117C		1		2	1	
Reg 117B	1		1	7	6	
Reg 117A	43	39	66	43	28	
Reg 117	10	4	10	3		
Reg 116B					3	
Reg 116	3	2	9	10	3	
Reg 115	1	1	6	6	6	
Reg 114	2	3	1	2		
Reg 113	10	8	5	17	5	
Reg 112	6	5	10	6	7	
Reg 111		2			1	
Reg 110	9	7	16	27	19	
Reg 109	19	13	9	10	9	
Reg 108	2	2	2	2	2	
Reg 107	3	2	2	2	3	
Reg 106	2	3	3	1	1	
Reg 105	28	27	35	53	57	
Reg 104	6	18	9	11	9	
Reg 103	257	258	400	439	396	
Reg 102F				21	14	
Reg 102E				20	9	
Reg 102D	13	45	97	69	31	
Reg 102C	3	15	21	30	16	
Reg 102B	11	35	58	26	18	
Reg 102AAC				11	40	
Reg 102AAB				3	10	
Reg 102	67	35	72	99	35	

Compliance action by Law/Regulation: All service types - Private for profit						
Law/Regulation	2020	2021	2022	2023	2024	
Reg 101	26	13	31	49	30	
Reg 100	50	26	37	33	19	
Law 86				1		
Law 78					1	
Law 77	1					
Law 73	1					
Law 70		12				
Law 56	4	4	3	2	5	
Law 53				1		
Law 51	27	25	23	20	16	
Law 32					2	
Law 31		2		4	1	
Law 295	2	11	13	14	1	
Law 273	1		1			
Law 269	2	2	1	1		
Law 218				5		
Law 21		1				
Law 208			2	2		
Law 207		1	2	4	1	
Law 19		1	2	2		
Law 188					2	
Law 187					1	
Law 185				1		
Law 183	5			3	5	
Law 182	3	8	16	14	22	
Law 180					1	
Law 175	123	64	107	103	97	
Law 174	76	119	157	191	147	
Law 173	43	24	32	42	34	
Law 172	95	52	138	89	82	
Law 171	1	5	2	7	9	
Law 170	4	17	22	23	33	
Law 169	79	55	93	121	85	
Law 168	40	31	37	32	35	
Law 167	339	426	661	759	681	
Law 166	85	117	177	272	168	
Law 165	132	207	316	490	460	
Law 164A	3	1	1	4	1	
Law 164		2				
Law 162A	87	64	108	75	65	

Compliance action by Law/Regulation: All service types - Private for profit						
Law/Regulation	2020	2021	2022	2023	2024	
Law 162	24	24	32	33	13	
Law 161A	1	3		2	2	
Law 161	5	2	5	6	1	
Law 12	3	2	1	2		
Law 103				1		

Compliance action by Law/Regulation: All service types - Other management types						
Law/Regulation	2020	2021	2022	2023	2024	
Reg 99	27	31	43	61	45	
Reg 98	1					
Reg 97	178	95	174	172	137	
Reg 95	6	4	7	8	6	
Reg 93	5	5	8	7	7	
Reg 92	11	15	29	17	11	
Reg 91	2	1				
Reg 90	42	18	27	27	20	
Reg 89	36	25	37	14	11	
Reg 88	1					
Reg 87	18	7	36	23	21	
Reg 86	22	12	19	20	18	
Reg 85			2	4		
Reg 84D					1	
Reg 84C				6	126	
Reg 84B				2	35	
Reg 84A				1	5	
Reg 84	28	15	23	18	17	
Reg 82			3	1	2	
Reg 81	2	2	6	9		
Reg 80	10	4	12	14	18	
Reg 79	7	3	5	7	3	
Reg 78	8		1	3	1	
Reg 77	20	4	31	20	19	
Reg 76	5	3	7	6	1	
Reg 75	12	10	20	20	16	
Reg 74	6	3	8	9	6	
Reg 73	3	2	4	4	1	
Reg 72		1	1			
Reg 56	9	11	17	6	3	
Reg 55	7	3	9	9	3	
Reg 32			1			
Reg 31	1	2		2		

Compliance action by Law/Regulation: All service types - Other management types					
Law/Regulation	2020	2021	2022	2023	2024
Reg 29		1			
Reg 274A		1	2	4	6
Reg 272		2	1	3	4
Reg 271		1			2
Reg 185		25	18	23	14
Reg 183		2	1	1	
Reg 182		1			
Reg 181		2	1		3
Reg 180		5	2	4	2
Reg 177		16	9	23	34
Reg 176		4	3	9	11
Reg 175		4	2	3	8
Reg 174		2	1	2	1
Reg 173A					9
Reg 173		17	11	29	19
Reg 172		2			1
Reg 171		6		3	3
Reg 170		94	101	141	136
Reg 169		2		1	2
Reg 168		65	48	39	37
Reg 166				1	
Reg 165		1		2	
Reg 163		2		1	1
Reg 162		39	34	38	29
Reg 161		28	14	13	9
Reg 160		35	27	57	37
Reg 159			1		
Reg 158		12	5	10	2
Reg 157				1	1
Reg 156					1
Reg 155		4	5	9	15
Reg 154					1
Reg 153				1	1
Reg 152B					1
Reg 152				1	1
Reg 151		22	12	21	15
Reg 150		16	7	8	8
Reg 149		3	1		
Reg 148		1			1
Reg 147		37	27	42	35

Compliance action by Law/Regulation: All service types - Other management types					
Law/Regulation	2020	2021	2022	2023	2024
Reg 146	2	4	2	4	4
Reg 145	2		1	15	23
Reg 144		2	1		
Reg 143B			1		
Reg 143A				1	
Reg 136	21	6	11	9	10
Reg 131		1	1		
Reg 130			1		2
Reg 128	1				1
Reg 127				2	
Reg 126	2	4	13	10	4
Reg 124					2
Reg 123	3	2	4	5	4
Reg 122	1		1	2	
Reg 120	2			2	1
Reg 118	18	4	22	17	8
Reg 117C				1	1
Reg 117B			1	3	
Reg 117A	17	6	18	14	9
Reg 117	5	3	2		
Reg 116C					1
Reg 116		2	1	1	3
Reg 115		1		4	2
Reg 114			3		1
Reg 113	1		1		
Reg 112	1	1	1	1	
Reg 111			1		
Reg 110	4	1	4	4	3
Reg 109	6	1	2	1	2
Reg 107			1	3	2
Reg 106	1	1	1		
Reg 105	3	3	2	6	4
Reg 104	5	10	9	7	4
Reg 103	47	53	89	95	69
Reg 102F				8	2
Reg 102E				5	2
Reg 102D	4	15	19	14	4
Reg 102C		1	11	12	2
Reg 102B	2	13	10	6	2
Reg 102AAC				4	26

Compliance action by Law/Regulation: All service types - Other management types					
Law/Regulation	2020	2021	2022	2023	2024
Reg 102AAB				1	5
Reg 102	30	16	12	35	25
Reg 101	9	4	7	20	15
Reg 100	22	12	4	18	14
Law 86				1	
Law 79			2		
Law 77			3		
Law 70		8			
Law 56		1	1	1	1
Law 53	24		1		
Law 51	7	4	1	2	7
Law 33		1			
Law 31	224	256	158	189	44
Law 295		1		2	
Law 269	1				2
Law 21	2				
Law 208				1	2
Law 207				2	
Law 19	42	2			
Law 188A			2		
Law 187			2		
Law 185				1	
Law 182	2	5	9	11	5
Law 175	43	16	36	38	23
Law 174A				6	
Law 174	31	44	51	67	53
Law 173	13	10	11	13	15
Law 172	46	17	44	36	36
Law 171			3		
Law 170	5	1	3	3	4
Law 169	13	1	6	11	5
Law 168	12	3	3	8	10
Law 167	152	144	221	247	199
Law 166	18	30	28	58	47
Law 165	102	101	162	203	144
Law 164A	1		1	1	
Law 164	1				
Law 163	1				
Law 162A	50	12	33	23	20
Law 162	9	3	6	3	4

Compliance action by Law/Regulation: All service types - Other management types					
Law/Regulation	2020	2021	2022	2023	2024
Law 161A			1		2
Law 161		1	2	1	4
Law 104		1	3	1	1
Law 103		1	5	6	1
Law 10				1	

Interpretation: All compliance actions issued since 2020 data grouped by management types (profit/not-for-profit).

QUESTION

95. For each calendar year from 2020 to 2024 (to date), and broken down into for-profit services and non-profit services, how many complaints/ requests for service (ie, external notifications from parents/educators of s165 and s166, 167, 169, 170 and s171 were made under the Education and Care Services National Law in NSW? Please break these down for each section of the law and limit them to long day care (ie, exclude family day care).

ANSWER

Complaints and incident notifications are not recorded in a way that allows reporting against sections of the National Law and Regulations.

From 2020 to 2024, overall there were 36,869 notifications of serious incidents received; of these, 26,344 incidents were reported from Long Day Care services.

Serious Incident Notifications by year lodged and management type			
Year	Private for profit	Other management type	Total
2020	3340		3112
2021	4134		3192
2022	4393		3400
2023	5415		3680
2024	3821		2382
Total	21103		15766

Long Day Care - Serious Incident Notifications by year lodged and management type			
Year	Private for profit	Other management type	Total
2020	2908		1632
2021	3664		1767
2022	3816		1776

2023	4560	1767	6327
2024	3273	1181	4454
Total	18221	8123	26344

From 2020 to 2024, overall there were 18,223 notifications of direct and notified complaints received; of these, 15,161 complaints were reported from Long Day Care services.

Direct and Notified Complaints by year lodged and management type			
Year	Private for profit	Other management type	Total
2020		1331	643
2021		2053	796
2022		2717	941
2023		3798	1192
2024		3695	1057
Total		13594	4629

Long Day Care - Direct and Notified Complaints by year lodged and management type			
Year	Other management type	Private for profit	Total
2020	447		1216
2021	547		1921
2022	573		2468
2023	669		3370
2024	617		3333
Total	2853		12308

QUESTION

96. For each calendar year from 2020 to 2024 (to date), and broken down into for-profit services and non-profit services, how many complaints/ requests for service (ie, external notifications from parents/educators of Regulation s84 and 77, 78, 79, 82, 83, 87, 89, 92, 99, 160, 165, 166, 170 and 171 were made? Please break them down for each regulation notice.

ANSWER

Please see the answer to supplementary question 95.

QUESTION

97. Of the 127 senior field officers, field officers, support officers and 15 investigators in the Dept of Education, how many work solely on early learning? How many are dedicated to long day care? Has this changed since the regulator was taken out of the early childhood division and put into the operation's arm of the organisation? If it has changed, please provide details.

ANSWER

All 435.2 FTE roles in the NSW Regulatory Authority work only in functions associated with regulation of the NSW early childhood education and care sector. This has not changed. It is not possible to break roles down into responsibilities for long day care centres, as work is not organised by service type but is allocated according to workload volume and risk.

QUESTION

98. The ECEC regulatory budget is \$60.5 million. How is this allocated?

ANSWER

The NSW ECEC Regulatory Authority approved FY25 budget of \$60.5 million comprised \$58.68 million labour expenses and \$5.17 million operating expenses, offset by \$3.34 million revenue.

Adjustments to labour budget to reflect the approved public sector pay increase and to provide surge capacity in response to the recent RTO matter, have increased the labour budget to \$59.68 million and overall regulatory budget to \$61.5 million.

QUESTION

99. For the total visits to centres how many were for quality assessment and how many were for investigations or no announced visits?

ANSWER

There were 37,592 visits to ECEC services over 2020-2024 YTD; of these 6,841 visits were for quality assessment, 2,206 visits were for investigations and overall 19,278 were unannounced visits.

QUESTION

100. For each calendar year from 2020 to 2024 (to date), and broken down into for-profit services and non-profit services, how many penalties were issued for documents that aren't accurate?

ANSWER

Many breaches of the National Law and Regulations relate to documentation. Below are the most common breaches of the National Law and Regulations in 2024 related to documentation. Data has been provided for all years 2020 to 2024, broken down by for profit and not for profit services.

Private for Profit - Confirmed Breaches					
Law/Reg Section with Description	2024	2023	2022	2021	2020
Law 172 Offence to fail to display prescribed information.	303	280	393	226	311
Law 174 Offence to fail to notify certain information to Regulatory Authority	278	290	299	224	152
Reg 145 Staff record	313	202	15	24	24
Reg 147 Staff members	244	348	534	358	416
Reg 168 Education and care service must have policies and procedures	230	189	202	243	265
Reg 170 Policies and procedures to be followed	493	690	796	521	454
Reg 84C Risk assessment for purposes of sleep and rest policies and procedures.	753	58	0	0	0

Other Management Types - Confirmed Breaches						
Law/Reg Section with Description	2024	2023	2022	2021	2020	
Law 172 Offence to fail to display prescribed information.	151	134	184	93	159	
Law 174 Offence to fail to notify certain information to Regulatory Authority	96	100	102	89	66	
Reg 145 Staff record	137	71	4	7	6	
Reg 147 Staff members	51	122	208	137	152	
Reg 168 Education and care service must have policies and procedures		118	73	82	97	108
Reg 170 Policies and procedures to be followed		131	278	308	273	192
Reg 84C Risk assessment for purposes of sleep and rest policies and procedures.		413	19	0	0	0
Reg 97 Emergency and evacuation procedures		558	598	630	463	543

QUESTION

101. How many investigations of long day care centres were undertaken in the past five years?

(a) In relation to the total visits to long day care centres, how many were for quality assessment and how many for investigations?

ANSWER

There were a total of 21,156 visits to long day care centres over 2020-2024; of these 1,739 visits were for investigations and 3,681 were for quality assessment.

PES

QUESTION

102. In the NSW Department of Education document given to Directors Educational Leadership titled, "Paving the way forward to manage underperformance effectively: Professional and Ethical Standards, Employee performance, School Performance Capability Building Summit: Supporting Students Success through School Leadership, June 2021 on page 7 there is a graph of Statewide Employee Performance Management Improvement (EPMI) case closures by reason between 2019 and April 2021.

(a) Of the 791 case closures during this period 180 principals and teachers left the profession as the reason their cases were closed. That represents just under $\frac{1}{4}$ of employees investigated who have left the Department. Do you think this statistic represents a culture of managing employees out?

(b) Of the 180 principals and teachers who left during this period and whose cases were subsequently closed, how many initiated civil legal claims against DEC? How many were prosecuted under criminal law? How many were given out of court settlements?

ANSWER

This is not an official Department of Education document. It was developed more than four years ago for a specific professional development meeting. It has not been used to manage underperformance in NSW schools.

The management of underperformance in schools is guided by the Management of conduct and performance policy and relevant improvement program procedures. A copy of the policy is available on the department's website at <https://education.nsw.gov.au/policy-library/policies/pd-2006-0335>.

QUESTION

103. How many Investigators are currently employed in PES?

(a) How many PES Investigators currently employed by the Department and Community Services are identified as Aboriginal or Torres Strait Islander?

(b) How many PES non-investigative staff currently employed are identified as Aboriginal or Torres Strait Islander?

ANSWER

As at 6 December 2024 there are 54 permanent active investigators in the Professional and Ethical Standards Directorate (PES).

(a) 0

(b) 3

QUESTION

104. How does the Department remedy a false outcome in a complaints management process?

ANSWER

It is unclear what is meant by “false outcome” as this is not a term used by the Department.

QUESTION

105. How can someone be transferred from a substantive position to an 'unattached' position?

ANSWER

There are no disciplinary or remedial actions imposed by the Professional and Ethical Standards directorate that result in transfer from a substantive position to an “unattached” position.

A person may be directed to attend Alternative Duties as a risk management strategy. This is a temporary measure and is not a transfer. While undertaking duties in a different role or location the person remains employed in their substantive position.

QUESTION

**106. What is an 'unattached' position?
(a) Is this descriptor referenced in any Act, Award or Agreement?**

ANSWER

Professional and Ethical Standards Directorate (PES) does not use the term ‘unattached’ position.

QUESTION

107. If a person is being performance managed, however described, how are they able to be transferred to another role?

ANSWER

A person who is being performance managed may be subject to a transfer as a result of a specific action, including demotion as a disciplinary outcome, application for voluntary regression or as a consequence of the management of injury or illness.

When there are reasons to believe that the issue is related to the employee's present work environment, or that the work is beyond the person's capability and that training and development will not be sufficient to remedy the issue, an employee may be transferred at their current pay rate. Transfer can offer the person a fresh start and removes an employee from the particular environment.

In some disciplinary matters, including those that arise from continued unsatisfactory performance, where remedial action or a performance improvement program has not resulted in improved performance, a person may be demoted to a lower position or their salary reduced.

QUESTION

108. If it is alleged that information in a briefing note for a transfer is false or misleading, what is the formal process the Department undertakes in response to verify, and if needed, remedy the information?

ANSWER

Any allegation that information contained in Professional and Ethical Standards Directorate (PES) documentation is false or misleading should be referred directly to the directorate.

Appropriate action will be taken.

QUESTION

**109. For staff subject to a transfer, what is the formal process for notification and of making sure staff are aware of their right to a review of the decision?
(a) If this process is not undertaken, what are the repercussions?**

ANSWER

When a delegated decision maker in the Professional and Ethical Standards Directorate (PES) determines to remedially transfer an employee following sustained allegations of misconduct, or following the completion of an improvement program, the employee is informed in writing. In these circumstances, there is no right of internal review of the decision.

The person may be able to seek appropriate external review. Such review may include an application to the Industrial Relations Commission or other appropriate body.

Where the proposed remedial action is the transfer to another position that would require the employee to change residence, then the person must be given an opportunity to make a submission with respect to such proposed remedial action before it is implemented. The delegated decision maker should be satisfied the person has no valid reason for refusing the transfer.

There are other circumstances outside of PES' conduct and performance sphere in which transfer may occur.

(a) This process is managed under the Management of conduct and performance policy. Any submission is considered by the delegated decision maker before a final decision is made. Any person who believes the decision was harsh, unjust or unreasonable should seek independent advice as to the external review options available.

QUESTION

110. Are positions advertised before a review is completed?

ANSWER

Once a person has been found by their supervisor not to have demonstrated sufficient improvement following an improvement program, they are removed from their role pending the outcome from the delegated decision maker.

Whatever the ultimate outcome, it is not possible for a person to remain in a role, where their supervisor has decided they are not capable of meeting the requirements. It is therefore possible to advertise the vacated role while the disciplinary decision is made.

If the delegated decision maker decides that the person should transfer to a like role (teaching or school support staff) or in the case of Government Sector Employment employees, at their current level, the person will be placed in a new position in a new workplace, under a different supervisor.

QUESTION

111. Are PES involved in return-to-work processes? If so, what would necessitate such involvement?

ANSWER

Return to work plans are developed by the department's Health, Safety and Staff Wellbeing Directorate (HSSW). The department's Recovery at Work Program (the

Program) provides a framework to guide and inform support for employees returning to work and recovering from injury or illness.

Where there is concurrent return to work and active conduct or performance matters, involving the Professional and Ethical Standards Directorate (PES), consultation with PES is initiated to ensure that any risks or decisions requiring consideration in respect to return-to-work planning are addressed appropriately.

QUESTION

112. How are return to work plans devised to ensure genuine collaboration between the Department and the injured worker?

ANSWER

The department's return to work process is supported by a dedicated Workplace Health Management team which delivers injury management services and supports to employees and schools under the Program.

The Program outlines the department's approach to recovery, including the systems and procedures followed when managing an employee's return to work, and developing a return to work plan. As part of return to work planning, consultation is undertaken with the employee, their medical team, and workplace manager to identify any health needs, medical considerations or reasonable adjustments that need to be considered as part of the process. Based on this consultation a proposed return to plan is developed and shared with all relevant parties for consideration and agreement. Parties may meet to develop, discuss, and review the plan, or to resolve any identified barriers and negotiate any required changes. The plan is required to be signed by all parties to confirm mutual agreement and commitment.

The plan is reviewed and updated at regular intervals by all parties and necessary adjustments are implemented as required.

QUESTION

113. What actions does PES undertake when they receive allegations, and evidence, of serious wrongdoing in accordance with the PID Act 2022 and s69(c) of the GSE Act 2013?

ANSWER

All allegations of employee misconduct referred to the Professional and Ethical Standards Directorate (PES) are assessed by the PES Preliminary Investigation Team and a determination made by a senior PES officer as to the appropriate course of action.

Where an allegation may be an allegation of serious wrongdoing as defined by the *Public Interest Disclosures Act 2022* (PID Act) (including allegations of detrimental action), the allegation is referred to the department's Disclosures Coordinator (PES Director, Investigations). It is the role of the Disclosures Coordinator to determine whether the report has the requisite features of a public interest disclosure (PID) and in association with this, whether the report will be managed by the department as a voluntary PID.

If it is determined a matter will be managed as a voluntary PID, PES fulfils the responsibilities of the department as specified in the PID Act. This includes making enquiries in relation to the report, providing advice and updates to the PID maker, and, if appropriate, taking corrective action following a finding of serious wrongdoing.

In relation to allegations of detrimental action specifically, PES takes action as appropriate based on the individual circumstances of a matter. For example, under the PID Act, PES is required to report allegations of detrimental action to the NSW Ombudsman and evidence of detrimental action to the NSW Police. PES may also take action under the relevant employment acts as a result of a finding of misconduct that involves the taking of detrimental action.

QUESTION

114. Under what circumstances would it be appropriate to procure the services of former Departmental employees to undertake the management of complaints and reviews?

ANSWER

From time to time, the department obtains the services of appropriately qualified and experienced persons to support the management of complaints and reviews. Person/s who may have previously worked for the department are not excluded from being engaged to support this work, if required.

This is not managed by the Professional and Ethical Standards Directorate but by the relevant Executive Director or a more senior executive managing the complaint.

In engaging these persons, the department ensures that proper processes are followed.

QUESTION

115. How does the Department adhere to procedural fairness when there are perceived conflicts of interest, and a lack of impartiality associated with the decision makers?

ANSWER

The Professional and Ethical Standards Directorate (PES) employs trained investigators who have relevant experience in criminal and/or administrative investigations and expertise in areas such as fraud, corruption and child protection.

The [Code of Ethics and Conduct](#) sets out the requirements of all staff in relation to declaring and managing conflicts of interest.

PES has an internal conflicts of interest register and declared conflicts of interest are appropriately managed. PES audits and actively manages the access of PES staff to its internal case management system.

Disability Royal Commission

QUESTION

116. The NSW Department of Education is responsible for several actions in Appendix B: NSW Government 2024/25 Implementation Plan of the NSW Government's response to the Disability Royal Commission. What is the Department's progress in relation to these actions?

(a) How is the Department monitoring its progress?

(b) What consultation with the disability community and their representative organisations has the Department undertaken in implementing these actions, and with whom did the Department consult?

(c) Actions 14 and 27 have a timeframe of the end of 2024. Has the Department implemented these actions?

(d) Actions 29, 30, 31, 32 and 33 have a timeframe of 2025. Can the Department provide an updated timeline for these, such as the month they are expected to be carried out?

(e) In relation to “action 29: Consider the capital investment needs for educational infrastructure arising from the Royal Commission’s recommendations”, can the Department provide a more detailed timeline of its evaluation of funding prioritisation for co-location or relocation of non-mainstream schools?

NSW Education Standards Authority is responsible for “action 31: Consider amendments to school registration requirements and regulatory oversights to improve the safety, inclusivity and quality of education for students with disability”. What is NESAs progress to date in actioning this by 2025?

(g) In relation to action 7, has the Department had any involvement in the NSW Government’s investigation of a legislative framework for restrictive practices authorisation?

ANSWER

(a) The Department of Education tracks progress against Education-specific actions arising from the Disability Royal Commission (DRC) through quarterly internal reports. These reports are provided to the department’s internal governance forums and Audit and Risk Committee for ongoing monitoring.

(b) The department has conducted consultations with students, parents, school staff, unions, the Aboriginal Education Consultative Group (AECG), principal reference

groups, and the NSW Parents and Citizens Federation (P&C Fed) on matters arising from the Disability Royal Commission (DRC) and related inquiries. This includes the Minister's Student Council (DOVES), the peak forum for interaction between NSW public school students. These discussions, including those with the Disability Strategy Reference Group (DSRG), have informed strategies to enhance disability inclusion, reasonable adjustments in classrooms, and social inclusion across schools. The department remains committed to ongoing consultation on all matters related to disability inclusion.

(c) – (e) The Department of Communities and Justice is the lead agency coordinating the NSW Government's response to the DRC. Information on how NSW is progressing with its implementation of the DRC, including for Education-specific actions, will be made available through public updates twice a year.

(f) The NSW Education Standards Authority (NESA) has started work on Action 31 of the NSW Government response to the DRC 2024/25 Implementation Plan. NESA is in the process of drafting amendments to its NSW school registration manuals and is planning stakeholder consultation on these draft amendments for the first half of 2025.

(g) The NSW Government's investigation of legislative frameworks on restrictive practices is being led by the Department of Communities, which consults regularly with the department.

Suspensions and expulsions data

QUESTION

117. In the Supplementary Budget Estimates hearing on Monday 2 December, Mr Graham confirmed that there were 40,861 suspensions in the first six months of 2024. Please provide a detailed breakdown of this data, for both primary and secondary students including:

(a) How many were short suspensions?

(b) How many were long suspensions?

(c) How many were students identified as receiving adjustments due to disability, for the total figure and for short and long suspensions?

i. How many were suspended for "Actual harm" reasons? Please provide data for each of the department's descriptors under this category.

ii. How many were suspended for "Unacceptable risk to health and safety / wellbeing" reasons? Please provide data for each of the department's descriptors under this category.

iii. How many were suspended for "Unknown / Not available" reasons?

(d) How many were First Nations students?

i. How many were suspended for "Actual harm" reasons? Please provide data for each of the department's descriptors under this category.

ii. How many were suspended for "Unacceptable risk to health and safety / wellbeing" reasons? Please provide data for each of the department's descriptors under this category.

iii. How many were suspended for "Unknown / Not available" reasons?

(e) How many students from SSPs were suspended in the first six months of 2024?

(f) How many students from a support unit within a mainstream school were suspended in the first six months of 2024?

ANSWER

The department's Student Behaviour policy removed short and long suspensions when the previous Student Discipline in Government Schools policy ceased at the end of Term 3, 2022.

Semester 1, 2024 data for suspensions and expulsions will be released publicly in early 2025 on the Data NSW website at <https://data.nsw.gov.au/data/dataset/nsw-education-suspensions-and-expulsions-in-nsw-government-schools>.

The revised Student Behaviour policy commenced from the beginning of Term 1, 2024. Actual harm and unacceptable risk to health and safety/wellbeing are no longer a suspension ground under the 2024 policy.

The 'unknown/not available' reason only existed for a temporary time frame in 2023 due to data issues across different third-party record management systems utilised locally by public schools.

QUESTION

**118. How many students were expelled in the first six months of 2024?
(a) How many were students identified as receiving adjustments due to disability?**

ANSWER

Please see answer to supplementary question 117.

QUESTION

119. Can the Department provide a breakdown by each year group of the number of students suspended in the first half of 2024?

ANSWER

Please see answer to supplementary question 117.

HSC disability provisions review

QUESTION

120. In relation to the recently announced review of HSC disability provisions, what is the timeline for the direct consultation process?

(a) Is there any reason why this review can't be opened up to the public for submissions?

ANSWER

Consultation on the Review of NESA's Higher School Certificate Disability Provisions Program started in November 2024 and will continue to mid-2025. This includes consultation with disability education specialists, school sectors, principals, teachers, disability advocates/groups and medical experts.

Members of the public will also have the opportunity to provide feedback through a survey that is focused on students with disability, and their parents and carers.

Independent alternative dispute resolution service

QUESTION

121. In the NSW Government's response to Recommendation 23 of the Inquiry into children and young people with disability in New South Wales educational settings, it notes that "the department has engaged an independent alternative dispute resolution service to assist parents/carers and schools to resolve disputes, at no cost to parents and carers." Is this service delivered by a mediator staffed within the Department or contracted by an external independent party?

(a) If it is an external independent party, which service has the department engaged and what is the nature of the contract?

(b) How can parents and carers access this service?

(c) Where can information about this be found publicly?

ANSWER

The Department of Education engages an external independent party, Resolution Institute, to provide Alternative Dispute Resolution (ADR) services, specifically mediation services and conflict coaching. Mediation is available to assist the department facilitate better communication or restore relationships with parents and carers. The service is provided as part of the department's Professional and Ethical Standards Directorate's (PES) Community Complaints function. The ADR services are currently provided as a non-consultancy professional service. No upfront payment is made for these services and payment is made by the department through invoices based on the actual usage of the services.

Information about ADR services are not publicly available. School and department staff seeking to apply ADR do so through PES. Involvement is voluntary (all parties need to consent to participate to progress) and may be offered at any time where there is a dispute or relationship breakdown.

Advocacy services for people with disability are available free to families with people with disability via the Disability Advocacy Futures Program delivered by the

Department of Communities and Justice and partnered by the Department of Education. It is publicly available at various points on the department's website.