Changes to The NSW Education Act
Non-Government School Not-for-Profit Requirements

What has changed?

The Act clarifies and strengthens the requirement that school assets and income must only be used for the operation of the school. The definition of not-for-profit has been made clearer. All payments made by schools (including to related parties) must be at reasonable market value. Schools must not pay fees to school board directors.

The government is not prescribing how schools spend their funding. For most schools, there will be no change to the way they manage their finances.

The process for investigation of alleged breaches has been strengthened. This includes establishing an Advisory Committee to oversight investigations, clearer powers of investigation, the ability to make directions to a school or impose conditions of funding.

How can schools ensure they do not operate for profit?

Schools must ensure that all payments made by a school for property, goods or services (including to related parties) must be at reasonable market value.

School assets and income must only be used for the operation of the school.

All payments must be required for the operation of the school.

Schools must not pay sitting fees to members of the school board.

What constitutes market value?

The current Guidelines define market value as “the amount which would be paid by a knowledgeable, willing party, at arms-length to the seller”.

Schools can demonstrate they are paying reasonable market value for property, goods or services for example by an open tender process, obtaining multiple quotes, or by reference to what others have paid in a similar market.

New Guidelines will be developed consistent with the legislative amendments.

Can schools still award scholarships or prizes to students?

Yes. Schools can make reasonable payments to students in connect with a prize, scholarship or other activity.

What are the requirements in the Act for schools?

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<thead>
<tr>
<th>Provision</th>
<th>Existing</th>
<th>New</th>
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<tbody>
<tr>
<td>All income from all sources (private, Commonwealth and NSW Governments) is covered by the Act.</td>
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<tr>
<td>All income and assets must be used for the operation of the school.</td>
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<td>Board members cannot be paid sitting fees.</td>
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<tr>
<td>All transactions must be at market value, including transactions with related parties.</td>
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When will the new requirements commence?

The new requirements will come into effect on 29 January 2015.