



ACT
Government
Education

Reviewable Decisions Procedure

ACT Education Directorate

Document Information

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This procedure must be read in conjunction with [Reviewable Decisions Policy](#).

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1. Overview

- 1.1. This procedure provides information about the process for applicants and decision-makers in relation to reviewable decisions under the *Education Act 2004* (the Act).

2. Rationale

- 2.1. This procedure is to assist persons whose interests may be affected by a Reviewable Decision, and to support Directorate decision-makers who are responsible for reviewing these decisions.

3. Procedures

3.1. Internal review procedures and guidance documents

- 3.1.1 The person making a Reviewable Decision is required under the Act to provide an Internal Review Notice to all entities mentioned in schedule 1, column 4 of the Act. A standard Internal Review Notice is available for decision-makers to include in their correspondence at <<LINK>>.
- 3.1.2 A person seeking an internal review of an internally Reviewable Decision listed at [Attachment A](#) should submit an online [Request for Review of a Reviewable Decision](#) within 28 days of receiving an Internal Review Notice. The applicant should clearly set out their reasons for seeking an internal review in the application.
- 3.1.3 An extension longer than 28 days may be granted by the internal reviewer before or after the end of the 28-day period.
- 3.1.4 [Attachment B](#) provides a flow-chart of the Reviewable Decisions process.

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3.2. Internal Review Process

- 3.2.1 Internally Reviewable Decisions under the Act with respect to education services apply to the following:
 - Approval to participate in training and employment alternatives.
 - Exemption from education participation requirements.
 - Home education.
 - Suspension of students from ACT public schools.
- 3.2.2 The Directorate officer authorised to conduct the review of an Internally Reviewable Decision may not be the same person who made the original decision. They will consider each matter on its merits, which requires the remaking of a decision as if the internal reviewer were the original decision-maker.
- 3.2.3 An internal reviewer of an internally Reviewable Decision must:
 - exercise integrity and professionalism by conducting the internal review fairly, impartially and efficiently, and in accordance with legislation and policy.

- review all relevant factors, including any evidence provided subsequent to the original decision.

3.2.4 The internal reviewer must, within 28 days after the decision-maker receives the application for internal review, either:

- confirm the decision,
- vary the decision, or
- set aside the decision and substitute with their own decision.

3.2.5 The internal reviewer **must provide a written notice of the internal review outcome and reasons for the decision to the applicant as soon as possible after the original decision has been reviewed.**

3.2.6 An application for an internal review of a Reviewable Decision does not stay the operation of that decision while the review is under way.

3.2.7 Notice to the applicant should:

- advise the outcome of the review of the original decision.
- explain the reasons for the outcome of the review (a Statement of Reasons is encouraged).
- include the relevant facts or considerations that led to the outcome.
- advise the avenue(s) for further review or appeal regarding the decision and timeframe in which the person affected by the decision may appeal, and
- include contact details of a person, agency or complaints body that the individual may appeal to.

3.2.8 If the applicant is not satisfied after the internal review process, they may apply to have the Directorate's decision externally reviewed.

3.2.9 If the decision is not varied or set aside within the 28-day period, the decision is taken to have been confirmed by the internal reviewer.

3.3. Drafting a Statement of Reasons

3.3.1. Officers undertaking reviews of internally Reviewable Decisions are encouraged to draft a Statement of Reasons behind their review decision. This statement should be sent to the applicant.

3.3.2. A Statement of Reasons clearly explains to the person affected by a review of an internally Reviewable Decision the reasons for the review outcome. That person can then decide whether to exercise their rights of further review or appeal and, if they do, they can do so in an informed manner.

3.3.3. Even though a Statement of Reasons is not required by law, courts and tribunals may request one be provided in the context of a dispute. This regularly occurs in the context of complaints to the ACT Human Rights Commission and other external complaints bodies.

A template to support reviewing officers to draft a Statement of Reasons can be found at <<LINK>>. A checklist to assist decision makers in making principles-based decisions can be found at <<LINK>>.

Commented [KC3]: Link to Statement of Reasons Template

Commented [MM4]: Link to Statement of Reasons Checklist.

3.3.4.

3.3.5. The [Administrative Decisions \(Judicial Review\) Act 1989](#) and the [ACT Civil and Administrative Tribunal Act 2008](#) both provide a power for certain affected parties to request a Statement of Reasons, which must be provided within 28 days.

3.3.6. The [ACTPS Integrity Framework Decision Maker's Handbook](#) provides practical advice and guidance for decision makers, including preparing a sound Statement of Reasons of the decisions made.

3.3.7. The Commonwealth Government Attorney General's Department's Administrative Review Council has published the '[Practical Guidelines for preparing statements of reasons](#)', which helps decision makers to prepare a sound Statement of Reasons for the decisions made.

3.4. External Review procedures

3.4.1. An external review of a Reviewable Decision may be undertaken by ACAT under the following circumstances:

- Where an applicant is dissatisfied with the outcome of an internal review.
- Where a Reviewable Decision is made personally by the Director-General.

3.4.2. Reviewable decisions made personally by the Director-General, and which therefore may only be reviewed externally by ACAT, are:

- Transfer of a student to another government school.
- Exclusion of a student from all government schools.

3.4.3. Affected persons who are dissatisfied with the outcome of the internal review, and who are seeking an external review, must apply to ACAT within 28 days of receiving the outcome of the internal review.

3.4.4. Affected persons who are dissatisfied with the Director-General's decision in those Reviewable Decision set out at 3.4.2, and who are seeking an external review, must apply to ACAT within 28 days of receiving an Internal Review Notice.

3.4.5. The form to request an external review by ACAT of a Reviewable Decision can be found on the ACAT website [here](#). Information and forms for external review are available on the Administrative Review section of the ACAT website: <http://www.acat.act.gov.au>. Contact details for ACAT are as follows:

Postal address: GPO Box 370
CANBERRA ACT 2601

Email: tribunal@act.gov.au

Phone: (02) 6207 1740

Fax: (02) 6205 4885
Website: <http://www.acat.act.gov.au>

4. Contact

- 4.1. The Executive Branch Manager, Governance Branch is responsible for this procedure.
- 4.2. For support contact the Legal Liaison Team on (02) 6205 8510 or email EDULegalLiaison@act.gov.au

5. Feedback

- 5.1. Any feedback about this policy, should be raised with the policy owner. Refer to Contact information above.

6. References

6.1. Definitions

Term	Definition
Applicant	The person whose interests are affected by a decision, such as the parents of a child.
ACAT	The ACT Civil and Administrative Tribunal is a statutory tribunal that conducts external reviews of certain administrative decisions made by government agencies.
Administrative Decision	A decision made in the exercise of public power by a decision-maker, within limits and discretions under the law.
Decision-maker	A person who has delegated responsibility for, and power to, make a decision.
Delegate	A person authorised by a statutory instrument to carry out another person's powers or functions i.e. decision-making.
Director-General	The person engaged under the <i>Public Sector Management Act 1994</i> , to perform the duties of the office of the Director-General of the ACT Education Directorate.
Internal Review Notice	If a decision-maker makes an internally Reviewable Decision, the decision-maker must give an internal review notice to each entity mentioned in schedule 1, column 4 in relation to the decision (s.141 <i>Education Act 2004</i>).

Term	Definition
Externally Reviewable Decision	A decision subject to external review by ACAT because it is either (a) the outcome of an internal review with which the applicant is not satisfied, or (b) an internal decision relating to education services specified at Schedule 1 of the Act, which is made personally by the Minister or the Director-General.
Internally Reviewable Decision	A decision relating to education services at Attachment A of this policy, which is made by a delegate of the Director-General and is available for internal review.

6.2. Legislation

6.2.1. Reviewable Decisions are set out in the [Education Act 2004](#)

6.3. Related Policies and Information

- [Home Education content on the Education Directorate website](#)
- [Suspension, Transfer and Exclusion Policy](#)
- [Exemptions Procedure](#)
- Post Year 10 alternatives (Work related training and employment) Approval Statements

6.4. Implementation Documents

- Reviewable Decisions Procedure <<LINK>> including List of Legislated Decisions relating to Education Services under the [Education Act 2004](#)
- Reviewable Decisions Process Map
- Internal Review Lodgement Form <<LINK>>
- How to Apply for a Reviewable Decision Information Template <<LINK>>

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Attachment A: Reviewable Decisions Responsibilities and References

This table sets out for quick reference all reviewable decisions relevant to education services delivered by the ACT Education Directorate, including references in the Act, delegations and descriptions of affected persons.

Reviewable decisions made personally by the Director-General are not subject to internal review. These decisions may only be reviewed externally by the Administrative and Civil Appeals Tribunal (ACAT).

Reviewable decisions made by a delegate of the Director-General are subject to internal review. These decisions may also be reviewed externally by ACAT.

1. APPROVAL TO PARTICIPATE IN TRAINING AND EMPLOYMENT ALTERNATIVES

Reviewable Decision	Reference in the <i>Education Act 2004</i>	Original decision-maker	Subject to an internal review (by the ACT Education Directorate) of a Reviewable Decision?	Who can apply for a review of a Reviewable Decision?
Decision to issue an approval statement for a period shorter than applied for.	Section 14A	Delegate of the Director-General	✓	Applicant OR person whose interests are affected by the decision
Decision to issue an approval statement approving other than full-time participation – participation stated in approval statement.	Section 14A	Delegate of the Director-General	✓	Applicant OR person whose interests are affected by the decision
Decision to refuse to issue an approval statement.	Section 14A	Delegate of the Director-General	✓	Applicant OR person whose interests are affected by the decision
Decision to issue an approval statement subject to condition.	Section 14C (4)	Delegate of the Director-General	✓	Applicant OR person whose interests are affected by the decision
Decision to revoke an approval statement.	Section 15A	Delegate of the Director-General	✓	Child's parents OR person whose interests are affected by the decision

2. EXEMPTION FROM EDUCATION PARTICIPATION REQUIREMENTS

Reviewable Decision	Reference in the <i>Education Act 2004</i>	Original decision-maker	Subject to an internal review (by the ACT Education Directorate) of a Reviewable Decision?	Who can apply for a review of a Reviewable Decision?
Decision to issue an exemption certificate for a shorter period than applied for.	Section 12A	Delegate of the Director-General	✓	Applicant OR person whose interests are affected by the decision
Decision to issue exemption certificate exempting child from full-time participation requirement – participation stated in exemption certificate.	Section 12A	Delegate of the Director-General	✓	Applicant OR person whose interests are affected by the decision
Decision to refuse to issue an exemption certificate exempting child from school, on application.	Section 12A	Delegate of the Director-General	✓	Applicant OR person whose interests are affected by the decision
Decision to issue an exemption certificate subject to condition.	Section 12C	Delegate of the Director-General	✓	Applicant OR person whose interests are affected by the decision
Decision to revoke an exemption certificate which exempts a child from school.	Section 13	Delegate of the Director-General	✓	Child's parents OR person whose interests are affected by the decision

3. HOME EDUCATION

Reviewable Decision	Reference in the <i>Education Act 2004</i>	Original decision-maker	Subject to an internal review (by the ACT Education Directorate) of a Reviewable Decision?	Who can apply for a review of a Reviewable Decision?
Decision to refuse to register a child for home education on application.	Section 131(3)	Delegate of the Director-General	✓	Parents of child OR person whose interests are affected by the decision
Decision to register a child for home education for a period less than 2 years.	Section 131(3)	Delegate of the Director-General	✓	Parents of child OR person whose interests are affected by the decision
Decision to cancel registration of a child for home education.	Section 135(1)	Delegate of the Director-General	✓	Parents of child OR person whose interests are affected by the decision
Decision to refuse to renew registration of a child for home education.	Section 137(3)	Delegate of the Director-General	✓	Parents of child OR person whose interests are affected by the decision
Decision to renew registration of a child for home education for a shorter period than the period applier for.	Section 137(3)	Delegate of the Director-General	✓	Parents of child OR person whose interests are affected by the decision

4. SUSPENSION, TRANSFER AND EXCLUSION OF STUDENTS FROM ACT PUBLIC SCHOOLS

Reviewable Decision	Reference in the <i>Education Act 2004</i>	Original decision-maker	Subject to an internal review (by the ACT Education Directorate) of a Reviewable Decision?	Who can apply for a review of a Reviewable Decision?
Suspension of student from a school for a stated period not longer than 20 days.	Section 36	Delegate of the Director-General	✓	Parents of student OR person whose interests are affected by the decision*
Transfer of a student to another government school.	Section 36	Director-General	Internal Review not available (External Review only)	Parents of student OR person whose interests are affected by the decision
Exclusion of a student from all government schools.	Section 36	Director-General	Internal Review not available (External Review only)	Parents of student OR person whose interests are affected by the decision

*from 1 Jan 2025 this will be 'student, Parents of student OR person whose interests are affected by the decision'

Attachment B: REVIEWABLE DECISIONS PROCESS

