

## Education and Training Reform Act 2006

### MINISTERIAL DIRECTION MD141 - SPECIAL RELIGIOUS INSTRUCTION IN GOVERNMENT SCHOOLS

#### 1. Title

This Direction may be cited as Ministerial Direction MD141 — Special Religious Instruction in Government schools.

#### 2. Authorising provisions and commencement

(1) This Direction is made under sections 5.2.1(2)(a) and (b) and 5.2.1(3) of the **Education and Training Reform Act 2006** for the purpose of sections 2.2.10 and 2.2.11 of that Act.

(2) This Direction comes into effect on 14 July 2014.

#### 3. Purpose

The purpose of this Ministerial Direction is to:

- (a) clarify the basis upon which special religious instruction may be provided in a Government school;
- (b) establish procedures for the provision and conduct of special religious instruction in Government schools; and
- (c) establish procedures for the care and supervision of students who do not participate in a school's special religious instruction program.

#### 4. Application

This Direction applies to all Government schools, teachers, principals and school councils.

#### 5. Definitions

(1) In this Direction, unless the contrary intention appears, words and expressions have the same meaning as in the Act.

(2) Further to subclause (1):

**accredited** means persons who are accredited representatives of churches or other religious groups;

**Act** means the **Education and Training Reform Act 2006**;

**approved** means approved by the Minister or his or her delegate for the purpose of delivering special religious instruction in Government schools;

**Department** means the Department of Education and Early Childhood Development or any Department which may succeed to the functions of that Department;

**Minister** means the Minister for Education;

**parent** in relation to a child means any person who has parental responsibility for 'major long term issues' as defined in the **Family Law Act 1975 (Cth)** or has been granted 'guardianship' for the child pursuant to the **Children, Youth and Families Act 2005** or other State welfare legislation;

**principal** means an employee within the meaning of Division 3 of Part 2.4 of the Act occupying, or for the time being performing the duties of, the position of principal of a Government school;

**school hours** means the hours between the start and finish times of the school day;

**Note:** The majority of Government schools, at the time of the making of this Direction, operate during the hours of 8.30am and 3.30pm.

**special religious instruction** means instruction provided by churches and other religious groups and based on distinctive religious tenets and beliefs, provided in accordance with section 2.2.11 of the Act.

## **6. Scheduling special religious instruction**

- (1) If a principal receives notification from an accredited and approved instructor that the instructor is available to deliver special religious instruction at the school, the principal must offer parents of children enrolled at the school the opportunity for their children to be provided with special religious instruction.
- (2) A school principal, prior to offering special religious instruction in a school, may request further information from an accredited and approved instructor who has provided notification in accordance with subclause (1), including the instructor's name, details of their accreditation and approval, the instructor's religious affiliations, an overview of the program to be taught by the instructor and any other information the principal requires in order to comply with this Direction or the Act.
- (3) If special religious instruction is offered at a school, it must be offered and provided in accordance with the Act and this Direction.
- (4) If special religious instruction is to be provided at a school, the principal must ensure that it is scheduled:
  - (a) during school hours;
  - (b) as part of the school timetable;
  - (c) as part of normal class organisation; and
  - (d) for no more than 30 minutes per week.
- (5) A principal must ensure that, during that time set aside for special religious instruction:

- (a) all students participating in special religious instruction are adequately supervised by at least one teacher; and
  - (b) all students who are not participating in special religious instruction are adequately supervised by at least one teacher, who is not the same teacher that is supervising students in accordance with subclause (5)(a).
- (6) A principal must ensure that the supervision of students under subclause (5) meets the standard of care appropriate to the discharge of a teacher's duty of care for Government school students.
- (7) If, once a principal has offered special religious instruction at a school, the principal determines that the school does not have sufficient resources to meet the obligations set out under this clause, special religious instruction will not be offered at the school.

**Example:** A principal may determine that there are not sufficient teaching staff to enable adequate supervision of students during that time that special religious instruction would be provided.

**Example:** A principal may determine that there is no suitable learning space available in which special religious instruction may be delivered.

## **7. Requirement of accredited and approved instructors and volunteer checks**

- (1) A principal must ensure, through consultation with the Department, that any person who is to provide special religious instruction at the school is an accredited and approved instructor.

**Note:** The process for accreditation of instructors is published on the Department's website.

- (2) A principal who offers special religious instruction in a school must request a copy of the instructor's formal accreditation and retain such a copy on the school's records.
- (3) A principal must ensure that each accredited and approved instructor delivering special religious instruction in a school complies with the school's volunteer and visitors to schools policies.

**Note:** Information about volunteer checks is published on the Department's website.

## **8. Program to be delivered**

- (1) A principal must ensure that each accredited and approved instructor delivering special religious instruction in a school delivers a program that is:
- (a) approved by the instructor's organisation;
  - (b) available for parents to access in an online format.

## 9. Distribution and display of religious material

- (1) A principal must not permit material to be distributed or displayed at a school if that material has the effect of promoting any particular religious practice, denomination or sect.

**Note:** Section 2.2.11 provides that the Minister may give an authorisation for special religious instruction to be given on a basis other than the normal class organisation of the school having regard to the particular circumstances of a school or schools or in preparation or conduct of a pageant, special event or celebration of a festival in a school or schools.

Section 2.2.10(1) of the Act states that, apart from special religious instruction, education in Government schools must be secular and must not promote any particular religious practice, denomination or sect.

Section 2.2.10(3) of the Act states that a Government school teacher must not provide religious instruction other than the provision of general religious education in any Government school building.

***general religious education*** for the purposes of section 2.2.10(4) means education about the major forms of religious thought and expression characteristic of Australian society and other societies in the world.

## 10. Supervision and monitoring of accredited and approved instructors

- (1) A principal must ensure that:

- (a) information, ideas, opinions or beliefs communicated to students; and
- (b) written material distributed to students –

by an accredited and approved instructor or their organisation during the course of a special religious instruction program do not contradict the school's values, curriculum, an applicable law, or Department policies or guidelines.

**Note:** Section 1.2.1 of the Act provides that:

*Parliament has had regard to the following principles in enacting this Act—*

*(1) all providers of education and training, both Government and non-Government, must ensure that their programs and teaching are delivered in a manner that supports and promotes the principles and*

*practice of Australian democracy,  
including a commitment to—*

- (i) elected Government;*
- (ii) the rule of law;*
- (iii) equal rights for all before the law;*
- (iv) freedom of religion;*
- (v) freedom of speech and association;*
- (vi) the values of openness and tolerance.*

(2) A principal must ensure that an accredited and approved instructor of a special religious instruction program in the school does not:

- (a) provide or offer to students who attend special religious instruction any enticement, reward or other benefit of a tangible nature;

**Example:** An enticement, reward or other benefit of a tangible nature may include gifts, sweets or stickers.

- (b) induce or attempt to induce any student to convert to a particular religion.

(3) A teacher who is responsible for the supervision of special religious instruction in accordance with clause 6(5) must report any concern he or she has about the delivery, provision or content of special religious instruction to the principal, as soon as it is practicable.

**Example:** A teacher who believes that the content of special religious instruction conflicts in some way with a Department policy must report that concern to the principal.

(4) An accredited and approved instructor must not, in their capacity as an accredited and approved instructor, participate in any school activity except for the delivery of a special religious instruction program in accordance with this Direction and the Act.

(5) For the avoidance of doubt, an accredited and approved instructor does not contravene subclause (4) if he or she participates in school activities as a parent, school council member or in any other capacity in which he or she would ordinarily be allowed to participate in school activities.

## **11. Attendance at special religious instruction not compulsory**

(1) Attendance at special religious instruction is not to be compulsory for any student whose parents desire that he or she not attend.

(2) A principal who offers special religious instruction in a school must do so on the basis that special religious instruction is not compulsory for any student.

(3) A principal who offers special religious instruction in a school must obtain written advice from all parents of students at the school regarding whether their child is to participate or not participate in special religious instruction.

- (4) In obtaining written advice from parents in accordance with subclause (3), a principal must use the form, if any, published by the Department for that purpose.

**Note:** At the time of making this Direction, the relevant form is available on the Department's website.

- (5) A principal must ensure that parents are provided with the following information in relation to the provision of special religious instruction in a school:

- (a) what type of religious instruction is offered or provided at the school;
- (b) how long it is to be delivered for each week;
- (c) an overview of the program to be taught by the accredited and approved instructor;
- (d) the name of the accredited and approved instructor who will deliver the special religious instruction program and his or her religious affiliations;
- (e) how a parent may access the special religious instruction program materials online, in accordance with the requirement in clause 8(1)(b); and
- (f) that a parent may withdraw their child from special religious instruction at any time by notifying the school in writing.

- (6) A principal must seek written advice in accordance with subclause (3) and (4), and provide information in accordance with subclause (5), at the following times:

- (a) if special religious instruction is to be introduced to a school that currently does not offer special religious instruction, before special religious instruction commences at the school;
- (b) if special religious instruction in a different religion to that already offered is to be introduced at a school, before special religious instruction in the different religion commences at the school; and
- (c) at least once per calendar year in a school that offers special religious instruction.

- (7) If a parent does not provide written advice in accordance with clause (3) and (4) within the time frame requested by the principal or specified in the form, the principal must treat the student who is the child of that parent as if the parent had not consented to that child receiving special religious instruction.

## **12. Educational activities for students not attending special religious instruction**

- (1) A principal must ensure that students who do not attend special religious instruction are, at the time that the special religious instruction is being provided, engaged in educationally valuable activities.

**Example:** For example, educationally valuable activities may include self-study, revision, reading, community service, peer mentoring, and participation in clubs.

- (2) At the time special religious instruction is being provided, a principal must ensure that students who do not attend special religious instruction are not provided with instruction in areas within the Australian Curriculum in Victoria (AusVELS) curriculum.

Dated this 1<sup>st</sup> day of May 2014

**The Hon. Martin Dixon MP**  
**Minister for Education**