Management of Health & Safety Risks Posed to Schools by a Students' Violent Behaviour

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Functional Sub group  Clinical/ Patient Services - Information and data
Summary  The Minister for Education and Training has issued guidelines under Part 5A of the Education Act 1990 to manage the health and safety risks posed to schools by a student's violent behaviour. Under the guidelines, a school or education authority can obtain certain information for this purpose from relevant agencies, including NSW Health. The Department of Education and Training guideline covers agencies' obligations to comply with a request for information.

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Applies to  Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared, Community Health Centres, Public Hospitals
Audience  Chief Executives, Directors, Section 248 Contact Points, Administration, Clinical Staff
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Director-General
MANAGEMENT OF HEALTH AND SAFETY RISKS POSED TO SCHOOLS BY A STUDENT’S VIOLENT BEHAVIOUR:
PART 5A OF THE EDUCATION ACT 1990
– IMPLICATIONS FOR NSW HEALTH

PURPOSE

Part 5A of the Education Act 1990 has been amended to provide:

- schools with the power to obtain information about students with a history of violent behaviour from relevant agencies, including NSW Public Health Organisations (within the meaning of the Health Services Act 1997) (the information power);
- the Director-General of the Department of Education and Training with the power to direct that a student whose violent behaviour poses a risk at a particular government school only attend the government school that can safely manage that risk (the directions power); and
- the Minister for Education and Training with a power to issue guidelines dealing with the information power and the directions power (the guidelines).

Guidelines have been issued by the Minister for Education and Training under Part 5A. They cover, amongst other things, obtaining information from relevant agencies where a student poses a risk to the health and safety of people at a school because of violent behaviour and there is reason to assume the agency holds or controls records that may assist in undertaking an adequate risk assessment. They also cover agency obligations to comply with a request for information.

This Information Bulletin identifies aspects of the Department of Education and Training guidelines that are most relevant to NSW Health.

KEY INFORMATION

NSW Health must comply with the Department of Education and Training guidelines effective immediately. The guidelines apply to all public health organisations.

NSW Health has a duty to provide information requested under the guidelines by a school or educational authority if there is relevant information in its possession or under its control, and providing it is:

- information of the kind set out in the guidelines as specified for NSW Health (see Schedule A, Section 4), and
- not information for which disclosure is prohibited by section 20G, 20P or 23 of the Health Administration Act 1982, which relate to Quality Assurance Committees, Root Cause Analysis Teams and specially privileged information within the meaning of that Act, respectively.

The request should come to NSW Health as a letter from a school principal or other authorised staff member in the form set out in the guidelines at Schedule C, Template Letter 2.
The process for obtaining information from NSW Health is also usefully summarised in the guidelines at Flowchart 2 (“Process for obtaining information from an agency”).

At section 4.2, the guidelines state that “information requests must not purely be a “fishing expedition”. Rather, there must be something that points to the likely existence of further information being held by the particular agency the information is being sought from”.

The Department of Health, Area Health Services, two Statutory Health Organisations the Children’s Hospital at Westmead and Justice Health and all affiliated health organisations are responsible for complying with requests for information from schools or educational authorities under the guidelines.

It is expected that most requests will be made to Area Health Services. Requests will be referred to AHS Section 248 Contact Points (that is, those AHS staff dealing with information exchange under s.248 of the Children and Young Person’s (Care and Protection Act) 1998).

The Department of Health will monitor activity under the guidelines by seeking information quarterly on the volume of requests and their appropriateness under the guidelines.

ASSOCIATED DOCUMENT