

## **PUBLIC HEALTH ACT 2016 (WA)**

### **Sections 157(1)(e), 157(1)(k), 180 and 190(1)(p)**

## **EDUCATION WORKER (RESTRICTIONS ON ACCESS) DIRECTIONS**

The World Health Organization declared COVID-19 a pandemic on 11 March 2020.

On 23 March 2020, the Minister for Health declared a public health state of emergency with effect from 1.30 pm on 23 March 2020 in respect of COVID-19 pursuant to section 167 of the *Public Health Act 2016 (WA)* (**Act**). On 22 September 2021, the Minister for Health declared a further public health state of emergency with effect from 4.25 pm on 22 September 2021 in respect of COVID-19 pursuant to section 167 of the Act. The public health state of emergency applies to the State of Western Australia.

I, Dr Andrew Robertson, the Chief Health Officer, authorised as an emergency officer under section 4 of the Act to exercise any of the emergency powers while the public health state of emergency declaration in respect of COVID-19 is in force, consider it reasonably necessary to give the following directions to all persons in Western Australia to prevent, control or abate the serious public health risk presented by COVID-19 pursuant to sections 157(1)(e), 157(1)(k), 180 and 190(1)(p) of the Act.

### **PREAMBLE**

1. The purpose of these directions is to put in place some measures to address the unique risks posed by COVID-19 to the education workforce for the purpose of preventing the spread of COVID-19 to children, students, families and members of the education workforce in Western Australia and the closure of education facilities due to outbreaks.

### **CITATION**

2. These directions may be referred to as the **Education Worker (Restrictions on Access) Directions**.

### **COMMENCEMENT**

3. These directions come into effect upon signing.

## DIRECTIONS

### Access Restrictions Applying to Education Workers

4. Subject to paragraphs 5 and 6:

- (a) on and from 12:01am on 1 January 2022, a person who is an **education worker** must not enter, or remain at, an **education facility** if the education worker has not been **partially vaccinated** against COVID-19; or
- (b) on and from 12:01am on 1 February 2022, a person who is an education worker must not enter, or remain at, an education facility if the education worker has not been **fully vaccinated** against COVID-19,

unless the person is present at the education facility solely in a capacity other than as an education worker.

### General Vaccination Requirements

- 5. Where only part of **premises** are being used as an education facility, nothing in these directions prevents an education worker who does not meet the requirements of paragraph 4 from entering that part of the premises which is not being used as an education facility.
- 6. Nothing in these directions prevents a person who is not vaccinated against COVID-19 from entering any part of an education facility for the purposes of:
  - (a) performing a statutory duty arising under a law of the Commonwealth that cannot reasonably be performed other than by entering the education facility; or
  - (b) performing any function or duty or exercising any right or power under a Fair Work entry permit issued by the Fair Work Commission under the *Fair Work Act 2009* (Cth) or a Work Health and Safety entry permit issued by the Fair Work Commission under the *Work Health and Safety Act 2011* (Cth) or a right of entry permit issued by the Registrar of the Department of the Registrar, Western Australian Industrial Relations Commission under the *Industrial Relations Act 1979* (WA);
  - (c) responding to an emergency where the emergency response is required to be provided immediately and a fully vaccinated or partially vaccinated person is not available to provide the response; and

to the extent that an education worker enters an education facility for any of the purposes in paragraphs (a) to (c) then the education worker is an **exempt person** at any time and for so long as they enter or remain at the education facility for that purpose.

7. An education worker must provide evidence in the form approved by the **Chief Health Officer** of their **vaccination status** for inspection, recording and retention of a copy if:
  - (a) **directed** to do so by an **emergency officer** or a **nominated officer**; or
  - (b) required to do so by their employer, **principal** or the person in charge of the education facility.
8. The employer, principal or the person in charge of the education facility must:
  - (a) take all reasonable and lawful steps to:
    - i. collect and maintain a record of the vaccination status of each education worker; and
    - ii. only roster on, or otherwise permit to work in an education facility, an education worker who is vaccinated or is an exempt person in accordance with these directions;
  - (b) on request, provide any record of the kind referred to in paragraph 8(a)i, that the employer, principal or the person in charge of the education facility has collected and maintained to an emergency officer or nominated officer as soon as practicable after the request is made; and
  - (c) not use or disclose any record of the kind referred to in paragraph 8(a)i. except:
    - i. as provided for in this paragraph 8; or
    - ii. as permitted or required by law, including any law of the Commonwealth; or
    - iii. for the purpose of ascertaining compliance with any employer direction restricting entry to an education facility; or
    - iv. to the extent that the person expressly provided the person's vaccination status for a purpose other than for the purposes of these directions; and
  - (d) take reasonable steps to protect any record it holds of the kind referred to in paragraph 8(a)i from:
    - i. misuse and loss; and
    - ii. unauthorised access, modification or disclosure.

9. A person who is required to provide evidence of their vaccination status under paragraph 7 or a record of the kind referred to in paragraph 8(a)i under paragraph 8(b) must only provide that evidence or a record that is true and accurate.

## INTERPRETATION

10. Unless specified otherwise, any reference in these directions to any other **direction** made by the Chief Health Officer is deemed to be a reference to that direction as amended or replaced from time to time.

## DEFINITIONS

For the purposes of these directions:

11. **Ad hoc basis** means attendance at no more than one education facility no more than once per week.

*Note: A person who attends multiple education facilities in a week, but does not visit the same education facility twice, does not attend on an ad hoc basis. For example, a tradesperson who works at school A on Monday and then works at school B on Wednesday of the same week must comply with the vaccination requirements in these directions.*

12. **Ad hoc volunteer** means a person who provides goods or services at an education facility in a voluntary or unpaid capacity and does so on an **ad hoc basis** only.

13. **Boarding premise** means a premise used to provide boarding or residential accommodation for students to attend, and participate in an educational programme of, a school.

*Note: A boarding premise includes a student residential college established under the School Education Act 1999 (WA).*

14. **Chief Health Officer** has the same meaning that it has in the Act.

15. **Child care service** has the same meaning that it has in the *Child Care Services Act 2007* (WA).

16. **Child care service facility** means a premise where an **education and care service**, a **child care service** or a vacation care program is provided.

*Note: A child care service facility includes a premise where a family day care service or an outside school hours service is provided. A child care service facility does not include premises used for a play group or premises used solely to provide sport, dance, music, culture or language or religious instruction to children.*

17. **Child care worker** means a person of the kind set out in Column 1 of the table in Schedule 1 other than an exempt person (even if the exempt person falls within Column 1 of the table in Schedule 1) or a person of the kind set out in Column 2 of Schedule 1.
18. **College** has the same meaning that it has in the *Vocational Education and Training Act 1996* (WA).
19. **Community kindergarten** means a kindergarten registered under Part 5 of the *School Education Act 1999* (WA).
20. **Community kindergarten worker** means a person of the kind set out in Column 1 of the table in Schedule 2 other than an exempt person (even if the exempt person falls within Column 1 of the table in Schedule 2) or a person of the kind set out in Column 2 of Schedule 2.
21. **Direction** includes any direction under the Act, whether the direction is given orally or in writing, and **directed** includes directed by way of a direction under the Act, whether the direction is given orally or in writing.
22. **Education and care service** has the same meaning that it has in the *Education and Care Services National Law (Western Australia)*.
23. **Education facility** means:
- (a) a **school**;
  - (b) a **community kindergarten**;
  - (c) a **child care service facility**;
  - (d) a **vocational education and training institution**; or
  - (e) a **boarding premise**.
24. **Education worker** means:
- (a) a **school worker**;
  - (b) a **community kindergarten worker**;
  - (c) a **child care worker**; or
  - (d) a **vocational education and training worker**.
25. **Emergency officer** has the same meaning that it has in the Act.
26. **Exempt person** means, to the extent that any such person is an education worker:
- (a) a person who has:
    - i. a **medical exemption** of which the person provides proof on request by a person referred to in paragraph 7; or

- ii. a **temporary exemption** of which the person provides proof on request by a person referred to in paragraph 7; or
  - (b) a person who is by operation of paragraph 6 of these directions an exempt person; or
  - (c) any other person or class of persons who the Chief Health Officer, or a person authorised by the Chief Health Officer for the purposes of this paragraph, declares in writing to be an exempt person upon receipt of a request for exemption in the form specified by the Chief Health Officer and subject to any terms and conditions specified.
27. **Exempt VET premise** means a premise:
- (a) where vocational education and training is provided by a **registered training provider**; and
  - (b) where all vocational education and training provided at the premise under paragraph 27(a) is delivered online or without any in-person contact with enrolled students; and
  - (d) the Chief Health Officer, or a person authorised by the Chief Health Officer for the purposes of this paragraph, declares the premise in writing to be an exempt VET premise upon receipt of a request for exemption by the registered training provider in the form specified by the Chief Health Officer and subject to any terms and conditions specified.
28. **Fully vaccinated** means that the person has been administered with two doses of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
29. **Group 1 or Group 2 industry or occupation** means an industry or occupation where a mandatory vaccination direction applies.
30. **Group 1 or Group 2 industry or work site** means a premise for which a mandatory vaccination direction applies.
31. **Home educator** has the same meaning it has in the *School Education Act 1999* (WA).
32. **Medical exemption** means a medical exemption recorded on the Australian Immunisation Register and displayed on the individual's Immunisation History Statement.
33. **Nominated officer** means an employee engaged by the Department of Education, the Department of Training and Workforce Development or the Department of

Communities authorised by the Chief Health Officer orally or in writing to perform a function for the purposes of these directions.

34. **Partially vaccinated** means that the person has been administered with one dose of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
35. **Premises** has the same meaning it has in the Act.
36. **Principal** has the same meaning it has in the *Vocational Education and Training Act 1996* (WA).
37. **Registered training provider** has the same meaning it has in the *Vocational Education and Training Act 1996* (WA).
38. **School** includes:
  - (a) a government school or a non-government school as defined in section 4 of the *School Education Act 1999* (WA);
  - (b) a premise that provides compulsory education to a child of compulsory school age other than a premise used by a **home educator**; and
  - (c) the site known as State Wide Services located at 33 Giles Ave, Padbury, Western Australia.
39. **School hours** means the hours of the day that a child of compulsory school age is required to attend a school.

*Note: School hours do not include hours when students may attend the school for extracurricular activities that are not compulsory, such as band practice, sporting practice, theatre productions and parent teacher evenings.*
40. **School worker** means a person of the kind set out in Column 1 of the table in Schedule 3 other than an exempt person (even if the exempt person falls within Column 1 of the table in Schedule 3) or a person of the kind set out in Column 2 of Schedule 3.
41. **Temporary exemption** means an exemption approved by the Chief Health Officer or a person authorised by the Chief Health Officer for that purpose whether in relation to an individual or a class of persons and subject to any terms and conditions specified in that approval.
42. **University** means a university established under a written law.
43. **Vaccination status** means whether an education worker has been vaccinated or whether they are an exempt person.
44. **Vocational education and training** has the same meaning it has in the *Vocational Education and Training Act 1996* (WA).

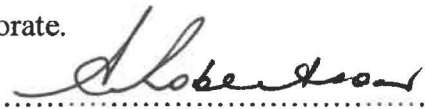
45. **Vocational education and training institution** means a premise where **vocational education and training** is provided by a registered training provider, including a **college**, but does not include a school or a **university** or an **exempt VET premise**.

*Note: A vocational education and training institution includes a Technical and Further Education (TAFE) college. A vocational education and training institution does not include a university.*

46. **Vocational education and training worker** means a person of the kind set out in Column 1 of the table in Schedule 4 other than an exempt person (even if the exempt person falls within Column 1 of the table in Schedule 4) or a person of the kind set out in Column 2 of Schedule 4.

## **PENALTIES**

It is an offence for a person to fail, without reasonable excuse, to comply with any of these directions, punishable by a fine of up to \$20,000 for individuals and \$100,000 for bodies corporate.



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**Dr Andrew Robertson**

Emergency Officer

**29** November 2021 **16:05** hours



## Schedule 1

Row	Column 1	Column 2
	<b>Child care service worker</b>	<b>Exempt persons</b>
1	<p>A person who is employed or engaged by the owner, operator or person in charge of a child care service facility to work at the child care service facility.</p> <p><i>Note: This includes a person engaged or employed on a casual or ad hoc basis by the owner, operator or person in charge to provide an education and care service or a child care service at the child care service facility, such as a casual child care worker at a child care service.</i></p>	<p>A child who is enrolled at the child care service facility.</p> <p>A person who is a parent, carer or family member who is dropping off or picking up, or otherwise attending the child care service facility for a purpose relating to, a child enrolled at the child care service facility.</p> <p>A person who attends a child care service facility outside of the hours when a child care service or an education and care service is being provided.</p>
2	<p>A person who is on a placement at a child care service facility as a formal part of their education, including an apprentice or student on work experience.</p> <p><i>Note: For example a student from a school, a vocational education and training institution or a university on a placement at a child care service facility.</i></p>	
3	<p>A person who provides goods or services at a child care service facility and is employed or otherwise engaged, including in a voluntary or unpaid capacity, to work at a child care service facility by the owner, operator or person in charge of the child care service facility or a third party on behalf of</p>	<p>A person who is an <b>ad hoc volunteer</b>.</p> <p>A person who provides goods and services on an <b>ad hoc basis</b>, including but not limited to a tradesperson, drainer, gasfitter, plumber, mechanic, electrician, builder, air conditioning or refrigeration worker, metal fabricator, plumber, plasterer.</p>

	<p>the owner, operator or person in charge of the child care service facility including:</p> <ul style="list-style-type: none"> <li>(a) a person engaged by a labour hire firm that provides staff to supplement the permanent workforce and contractors;</li> <li>(b) an administrative staff member including a person working in administration, policy, management or reception services;</li> <li>(c) an ancillary staff member including a cleaner, a gardener, a handyperson, a person performing food preparation services and a person providing maintenance services.</li> </ul>	<p>A person who delivers goods to a child care service facility on an ad hoc basis or who is not required to come within 1.5 metres of children at the child care service facility.</p>
4	<p>A person who participates in or facilitates activities at a child care service facility other than a person who does so on an ad hoc basis only.</p> <p><i>Note: This includes parents and community members.</i></p>	<p>A person who is a visitor to child care service facility, including a parent, carer or family member of an enrolled child or volunteer, who participates in or facilitates activities at the child care service facility on an ad hoc basis only.</p>
5	<p>A person employed or engaged in the Department of Communities who attends a child care service facility other than on an ad hoc basis only.</p>	

## Schedule 2

Row	Column 1	Column 2
	Community kindergarten worker	Exempt persons
1	<p>A person who is employed or engaged to work at a community kindergarten by the Department of Education or the owner, operator or person in charge of the community kindergarten.</p> <p><i>Note: This includes a person engaged or employed on a casual or ad hoc basis by the Department of Education or the owner, operator or person in charge of a community kindergarten, such as a relief teacher, an education assistant or any other education staff working at a community kindergarten.</i></p>	<p>A child who is enrolled at a community kindergarten</p> <p>A person who is a parent, carer or family member who is dropping off or picking up, or otherwise attending the community kindergarten for a purpose relating to, a child enrolled at the community kindergarten.</p> <p>A person who attends a community kindergarten outside of the hours when an educational programme for children is being provided.</p>
2	<p>A person who is on a placement at a community kindergarten as a formal part of their education, including an apprentice or student on work experience.</p> <p><i>Note: For example a student from a school, a vocational education and training institution or a university on a placement at a community kindergarten.</i></p>	
3	<p>A person who provides goods or services at a community kindergarten and is employed or otherwise engaged, including in a voluntary or unpaid capacity, to work at a community kindergarten by the owner, operator or person in charge of the</p>	<p>A person who is an ad hoc volunteer.</p> <p>A person who provides goods and services on an ad hoc basis, including but not limited to a tradesperson, drainer, gasfitter, plumber, mechanic, electrician, builder, air</p>

	<p>community kindergarten or a third party on behalf of the owner, operator or person in charge of the community kindergarten including:</p> <ul style="list-style-type: none"> <li>(a) a person engaged by a labour hire firm that provides staff to supplement the permanent workforce and contractors;</li> <li>(b) an administrative staff member including a person working in administration, policy, management or reception services;</li> <li>(c) an ancillary staff member including a cleaner, a gardener, a handyperson, a person performing food preparation services and a person providing maintenance services.</li> </ul>	<p>conditioning or refrigeration worker, metal fabricator, plumber, plasterer.</p> <p>A person who delivers goods to a community kindergarten on an ad hoc basis or who is not required to come within 1.5 metres of children at the community kindergarten.</p>
4	<p>A person who participates in or facilitates activities at the community kindergarten other than a person who does so on an ad hoc basis only.</p> <p><i>Note: This includes parents and members of the community, such as those involved in music programmes, parent excursion supervisors and members of a Parent Management Committee.</i></p>	<p>A person who is a visitor to a school, including a parent, carer, family member of an enrolled child or volunteer, who participates in or facilitates activities at the community kindergarten on an ad hoc basis only.</p>
5	<p>A person employed or engaged in the Department of Education who attends a community kindergarten other than on an ad hoc basis only.</p>	

### Schedule 3

Row	Column 1	Column 2
	School worker	Exempt persons
1	<p>A person who is employed or engaged to work at a school or boarding premise by the Department of Education or the owner, operator or person in charge of the school or the boarding premise.</p> <p><i>Note: This includes a person engaged or employed on a casual or ad hoc basis by the Department of Education or the owner, operator or person in charge of the school or boarding premise, such as a relief teacher, an education assistant, a school officer or any other education staff working at a school or a boarding supervisor at a boarding premise.</i></p>	<p>A student who is enrolled at the school or resides at the boarding premise.</p> <p><i>Note: Students enrolled at a school are not required to be vaccinated to attend the school at which they are enrolled. However, a student enrolled at a school may be required to comply with vaccination requirements in these or other directions for the purposes of a placement or volunteer work, coordinated by the school, in a <b>Group 1 or Group 2 industry or occupation.</b></i></p> <p>A person who is a parent, carer or family member who is picking up or dropping off a student or is attending the school or boarding premise for a purpose relating to a student.</p> <p><i>Note: This includes a parent who attends a school for a parent teacher meeting.</i></p> <p>A person who attends a school outside of the <b>school hours.</b></p>
2	<p>A person who is on a placement at a school or boarding premise as a formal part of their education, including an apprentice or student on work experience.</p>	

	<p><i>Note: For example a student from another school, a vocational education and training institution or a university on a placement at a school.</i></p>	
3	<p>A person who provides goods or services at a school or boarding premise and is employed or otherwise engaged, including in a voluntary or unpaid capacity, to work at a school or boarding premise by the owner, operator or person in charge of the school or boarding premise or a third party on behalf of the owner, operator or person in charge of the school or boarding premise including:</p> <ul style="list-style-type: none"> <li>(a) a person engaged by a labour hire firm that provides staff to supplement the permanent workforce and contractors;</li> <li>(b) an administrative staff member including a person working in administration, policy, management or reception services;</li> <li>(c) an ancillary staff member including a cleaner, a gardener, a handyperson a person performing food preparation services and a person providing maintenance services.</li> </ul> <p><i>Note: This includes swimming instructors.</i></p>	<p>A person who is an ad hoc volunteer.</p> <p>A person who provides goods and services on an ad hoc basis, including but not limited to a tradesperson, drainer, gasfitter, plumber, mechanic, electrician, builder, air conditioning or refrigeration worker, metal fabricator, plumber, plasterer.</p> <p>A person who delivers goods on an ad hoc basis or who is not required to come within 1.5 metres of students at the school or boarding premise.</p>
4	<p>A person who participates in or facilitates activities at the school or boarding premise other than a person who does so on an ad hoc basis only.</p>	<p>A person who is a visitor to a school or boarding premise, including a parent, carer of family member of a student or volunteer, who participates in or facilitates activities at</p>

	<p><i>Note: This includes parents and community volunteers, such as those working in the canteen, uniform store, involved in school literacy programs, parent excursion supervisors and members of any Parents and Citizen (P&amp;C) committees.</i></p>	the school or boarding premise on an ad hoc basis only.
5	A person employed or engaged in the Department of Education who attends a school or boarding premise other than on an ad hoc basis only.	

#### Schedule 4

Row	Column 1	Column 2
	Vocational education and training worker	Exempt persons
1	A person who is employed or engaged to work at a vocational education and training institution by the owner, operator or person in charge of a vocational education and training institution.	<p>A student who is enrolled at the vocational education and training institution.</p> <p><i>Note: Students enrolled at a vocational education and training institution are not required to be vaccinated to attend the vocational education and training institution at which they are enrolled. However, a student enrolled at a vocational education and training institution may be required to comply with vaccination requirements in these or other directions if they are an apprentice or trainee working in a Group 1 or Group 2 industry or occupation, or their course or training program includes an industry work placement at a Group 1 or Group 2 work site.</i></p> <p>A person who is a visitor to a vocational education and training institution, including:</p> <ul style="list-style-type: none"> <li>(a) a parent, guardian or family member who is picking up or dropping off a person who is enrolled at the vocational education and training institution.</li> <li>(b) a person who hires part, or the whole of, a vocational education and training institution for a purpose</li> </ul>



		unrelated to vocational education and training on an ad hoc basis.
2	<p>A person who is on a placement at a vocational education and training institution as a formal part of their education, including an apprentice or student on work experience.</p> <p><i>Note: For example a student from a school, a vocational education and training institution or a university on a placement at a vocational education and training institution.</i></p>	
3	<p>A person who provides goods or services at a vocational education and training institution and is employed or otherwise engaged, including in a voluntary or unpaid capacity, to work at a vocational education and training institution by the owner, operator or person in charge of the vocational education and training institution or a third party on behalf of the owner, operator or person in charge of the vocational education and training institution including:</p> <p>(a) a person engaged by a labour hire firm that provides staff to supplement the permanent workforce and contractors;</p> <p>(b) an administrative staff member including a person working in</p>	<p>A person who is an ad hoc volunteer.</p> <p>A person who provides goods and services on an ad hoc basis, including but not limited to a tradesperson, a drainer, gasfitter, plumber, mechanic, electrician, builder, air conditioning or refrigeration worker, metal fabricator, plumber, plasterer.</p> <p>A person who delivers goods on an ad hoc basis or who is not required to come within 1.5 metres of students at the vocational education and training institution.</p>

	<p>administration, policy, management or reception services;</p> <p>(c) an ancillary staff member including a cleaner, a gardener, a handyperson, a person performing food preparation services and a person providing maintenance services.</p>	
4	<p>A person employed or engaged in the Department of Training and Workforce Development who attends any vocational education and training institution other than on an ad hoc basis only.</p>	