{Insert date}

{Insert full name of parent/s}

{Insert address}

Dear {insert full name of parent/s}

**NOTICE OF OBLIGATION UNDER COMPULSORY PARTICIPATION PHASE**

**Section 241(2) of the *Education (General Provisions) Act 2006* (Qld)**

I refer to my previous contact with you about your alleged failure to ensure your child {insert child’s full name and DOB} participates full-time in an eligible option. This contact has included {insert details of previous interaction and support offered – list dates and staff members involved}.

OR

I suspect that your child {insert child’s full name}, who is in the compulsory participation phase, is still not participating full-time in an eligible option.

I am an officer authorised to take formal steps under s.241 of the *Education (General Provisions) Act 2006* (Qld)(the Act)which may lead to prosecution of parents in breach of their obligation to ensure their child participates full-time in an eligible option.

As it is in your child’s best interests to participate in an eligible option, I have decided to issue you with this written notice under s.241(2) of the Act.

**Your legal obligation**

Section 239(1) of the Act provides that each parent of a young person in the compulsory participation phase has the obligation to ensure that the young person is participating full-time in an eligible option, unless the obligation does not apply for other reasons (please refer to s.240 the Act, attached)*.*

“Compulsory participation phase” is defined by s.231 of the Act as:

1. starting when the person stops being of compulsory school age (i.e. reaches 16 years or completes Year 10); and
2. ending when the person:
3. gains a Certificate of Achievement, Senior Statement, Certificate III or Certificate IV; or
4. has participated in eligible options for 2 years after the person stopped being of compulsory school age; or
5. turns 17 years.

Failure to comply with the obligation in s.239(1) of the Act, without a reasonable excuse, is an offence. If you are prosecuted for an offence, you may be liable to a fine of up to 6 penalty units for the first offence, and up to 12 penalty units for each further offence. Information about penalty units is available from *https://www.qld.gov.au/law/crime-and-police/types-of-crime/sentencing-fines-and-penalties-for-offences/*.

I have attached a copy of ss. 234 to 242 of the Act for your information.

**Proposed meeting**

You are invited to a meeting at {insert place} on {insert date (note: meeting date must be set only at a date which is a reasonable period after the notice will have been given e.g. not two days after the letter is dated)} at {insert time}, to discuss the situation. You are welcome to bring a support person. If this time or place is unsuitable to you, please let me know so we can make suitable arrangements.

The purpose of the meeting is to discuss with you the compulsory participation obligation. We can discuss the options for your child, whether an alteration to your child’s eligible option or a flexible arrangement could be put in place or that you have a reasonable excuse for your child not participating as required.

If this matter cannot be resolved, the Department of Education may consider referring the matter to the Queensland Police Service for prosecution*.*

Please contact {insert contact officer and phone number and/or email address} should you wish to discuss the meeting, or to seek further assistance with ensuring your child’s participation.

Yours sincerely

**Authorised Officer**

{Name}

{Position}

Enc. ss.234 to 242 *Education (General Provisions) Act 2006*)

Meaning of parent, compulsory participation phase and list of eligible options in the compulsory participation phase

**Extracts from *Education (General Provisions) Act 2006***

**234 What is participation**

1. A young person is participating in an eligible option only if the person is—
2. enrolled with the provider in the relevant program or course; and
3. complying with the provider’s attendance requirements for the program or course.
4. The provider’s attendance requirements for a program or course are the requirements about physically attending, at particular times, the provider’s premises or another place.
5. However, despite subsection (2)—
6. the provider’s attendance requirements for a program of distance education are to complete and return the assigned work for the program; and
7. the provider’s attendance requirements for an external program are its requirements about communicating with or contacting the provider for the purpose of participating in the program or course.

**235 Full-time participation**

A reference to full-time participation in an eligible option—

(a) is a reference to participation in an eligible option at a level that is full-time under the requirements of the option; and

(b) includes part-time participation in 2 or more eligible options to an extent that is at least equivalent to full-time participation in 1 option.

*Example for paragraph (b)*—

A young person is participating part-time in an educational program at a State school or non-State school (the ***school program***) and part-time in a course of vocational education and training at a TAFE institute or statutory TAFE institute (the ***VET course***).

The levels of the young person’s participation are—

• 60% of full-time participation in the school program

• 40% of full-time participation in the VET course.

**236 Allowed absence**

A young person’s participation in an eligible option is taken to continue during an absence allowed under the requirements of the option.

*Example*—

A person enrolled in an educational program at a State school is absent for a day because of illness.

**237 Suspension or exclusion**

1. If a young person participating in an eligible option stops attending the provider because the person has been suspended from the provider, the person’s participation in the option is taken to continue during the period of the suspension.
2. Subsection (1) does not apply to suspension from a State school under chapter 12, part 3, division 1 or 2 if the person has been placed in an educational program under section 286(2) or 291.

*Note*—

Section 234(1) and (3)(b) provide for how the person participates in the educational program.

1. If a young person participating in an eligible option stops attending the provider because the person has been excluded from the provider, the person is taken for this chapter to be continuing to participate in an eligible option, at the same level as before the exclusion, for the time reasonably required for the person to resume participation in an eligible option.

**Part 3 Participation in an apprenticeship or traineeship**

**238 Participation in an apprenticeship or traineeship**

1. This section applies to a young person who is an apprentice or trainee under the *Further Education and Training* *Act 2014*.
2. The person is taken to be participating full-time in an apprenticeship or traineeship under the *Further Education and Training* *Act 2014*.

**Part 4 Parents’ obligation**

**239 Obligation to ensure participation**

1. Each parent of a young person in the compulsory participation phase must ensure the young person is participating full-time in an eligible option, unless the parent has a reasonable excuse.

Maximum penalty—

1. for a first offence—6 penalty units; or
2. for a second or subsequent offence, whether or not relating to the same child of the parent—12 penalty units.
3. Without limiting subsection (1), it is a reasonable excuse for a parent (the relevant parent) that—
4. the young person lives with another parent and the relevant parent believes, on reasonable grounds, the other parent is ensuring the young person participates full-time in an eligible option; or
5. in all the circumstances, the relevant parent is not reasonably able to control the young person’s behaviour to the extent necessary to ensure the young person participates full-time in an eligible option.

**240 Exceptions to obligation**

1. Section 239(1) does not apply to the extent provided under an exemption in force under part 5.
2. Section 239(1) does not apply if the young person is in paid employment for at least 25 hours each week.
3. Section 239(1) does not apply if the young person is enrolled with an entity providing a non-departmental employment skills development program and attending the entity for the program.
4. Section 239(1) does not apply to the extent of any inconsistency with a law of the Commonwealth under which a young person in the compulsory participation phase may carry on an activity other than participating full-time in an eligible option.
5. Section 239(1) does not apply if the young person is provisionally registered, or registered, for home education under chapter 9, part 5.

**241 Notice to, and meeting with, parent**

1. This section applies if an authorised officer reasonably suspects a young person is in the compulsory participation phase and is not participating full-time in an eligible option.
2. The officer may give a parent of the young person a notice in the approved form about the parent’s obligation under section 239(1).
3. The officer may also meet with the parent to discuss the obligation.
4. If, despite the officer taking reasonable steps to meet with the parent under subsection (3), no meeting is held, the officer may give the parent a warning notice in the approved form.
5. For the *Police Powers and Responsibilities Act 2000*, section 16 an authorised officer acting under this section is a public official performing a function authorised by this Act.
6. In this section—

***authorised officer*** means the chief executive or an officer of the department authorised by the chief executive for this section.

**242 Limits on proceedings against a parent**

1. Proceedings for an offence against section 239(1) may be brought against a parent—
2. by the chief executive or with the chief executive’s consent; and
3. only if the time when the parent is alleged to have committed the offence is after—
	1. the parent has been given a notice under section 241(2); and
	2. at least 1 meeting has been held with the parent under section 241(3) or the parent has been given a warning notice under section 241(4).

*Note –* Under section 432, the chief executive may delegate the chief executive’s functions under this section to an appropriately qualified officer of the department.

The chief executive (child safety) is not liable to be prosecuted for an offence against section 239(1).

**Meaning of parent (from *Education (General Provisions) Act 2006* s10)**

(1) A ***parent***, of a child, is any of the following persons—

(a) the child’s mother;

(b) the child’s father;

(c) a person who exercises parental responsibility for the child.

(2) However, a person standing in the place of a parent of a child on a temporary basis is not a parent of the child.

(3) A parent of an Aboriginal child includes a person who, under Aboriginal tradition, is regarded as a parent of the child.

(4) A parent of a Torres Strait Islander child includes a person who, under Island custom, is regarded as a parent of the child.

(5) Despite subsections (1), (3) and (4), if—

(a) a person is granted guardianship of a child under the *Child Protection Act 1999*; or

(b) a person otherwise exercises parental responsibility for a child under a decision or order of a federal court or a court of a State;

then a reference in this Act to a parent of a child is a reference only to a person mentioned in paragraph (a) or (b).

**Meaning of compulsory participation phase (from *Education (General Provisions) Act 2006* s231)**

A young person's compulsory participation phase starts when s/he stops being of compulsory school age (i.e. turns 16 or completes Year 10 whichever comes first) and ends when the person:

* gains a Certificate of Achievement, Senior Statement, Certificate III or Certificate IV or
* has participated in eligible options for 2 years after the person stopped being of compulsory school age or
* turns 17.

**Meaning of an eligible option (from *Education (General Provisions) Act 2006* s232)**

An eligible option is a recognised education or training program or course, offered by a recognised provider, which will enable a young person to gain a Certificate of Achievement, Senior Statement and/or a Certificate III or IV. Eligible options and providers are listed in the following table:

|  |  |
| --- | --- |
| **Eligible Option** | **​Provider** |
| ​An educational program provided under the [*Education (General Provisions) Act 2006 (Qld)*](http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/EducGenPrA06.pdf) | ​a State school |
| ​An educational program provided under the [*Education (Accreditation of Non-State Schools) Act 2011 (Qld)*](http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/EducAccNSSA01.pdf) | ​a non-State school |
| ​A course of study under the [*Tertiary Education Quality and Standards Agency Act 2011 (Cwlth)*](http://www.comlaw.gov.au/Details/C2014C00212) | ​a registered higher education provider |
| ​A VET course under the [*National Vocational Education and Training Regulator Act 2011 (Cwlth)*](http://www.comlaw.gov.au/Details/C2012C00473) | ​a registered training organisation |
| ​An apprenticeship or traineeship under the [*Further Education and Training Act 2014 (Qld)*](https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/F/FurtherEdTrngA14.pdf) | ​a registered training organisation |
| ​A departmental employment skills development program under the [*Further Education and Training Act 2014 (Qld)*](https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/F/FurtherEdTrngA14.pdf) | ​the chief executive administering the *Further Education and Training Act 2014* |