(Letter from Regional Director – to be sent via post and email. Must include all evidence and material considered.)

(date)

Dear [parent/s name]

Your application for an internal review of your unsuccessful application for enrolment in [name of state special school] for your child has been forwarded to me for consideration.

I am the Chief Executive of the Department of Education (department) delegated officer responsible for reviewing decisions related to refusal of enrolment in a state special school in accordance with section 167 of the [*Education (General Provisions) Act 2006* (Qld)](https://www.legislation.qld.gov.au/view/html/inforce/2018-05-01/act-2006-039) (EGPA). I was not involved in the original decision.

**My decision**

(paragraph if decision to confirm the original decision to refuse enrolment – delete other 2 decision options)

I have considered your application carefully, and I have decided, [choose the relevant paragraph and delete the paragraphs not required]

1. pursuant to section 392(2)(a) of the EGPA, to confirm the original decision. This means that your child cannot enrol in [name of state special school].

Please do not hesitate to contact [relevant regional officer name at department’s closest regional office] Regional Office <insert name of position>,      <insert name of Region> by email [insert details]<insert email address> or by telephone [insert details] <insert telephone number> to discuss schooling options, supports and services available for [student name].

## OR

(paragraph if decision is to change the decision – delete other 2 decision options)

## I have considered your application carefully, and 2. pursuant to section 392(2)(b) of the EGPA, I have decided to amend the original decision. My amended decision is [insert details]. <insert how the original decision is to be amended>

## OR

(paragraph if decision is to make a new decision to approve enrolment – delete other 2 decision options)

## I have considered your application carefully, and I would like to advise that I have decided, 3. pursuant to section 392(2)(c) of the EGPA, to substitute another decision for the original decision. My substituted decision is [insert details].

## This means that your application for enrolment in [insert details] <insert name of school> will now be referred to the school for processing in accordance with section 156 of the EGPA.

Please contact the principal, <insert name of Principal and special school> on [insert details] <insert telephone number> as soon as possible, to arrange enrolment.

**Material considered**

In making my decision I considered the following information:

* Sections 166, 167 and 390 - 392 of the EGPA
* [*Special school eligibility (“person with a disability” criteria)*](https://education.qld.gov.au/student/Documents/special-school-eligibility-policy.docx) policy

# [*Enrolment in state primary, secondary and special schools*](https://ppr.qed.qld.gov.au/pp/enrolment-in-state-primary-secondary-and-special-schools-procedure)procedure

# [*State special school (additional requirements)*](https://ppr.qed.qld.gov.au/pp/state-special-school-enrolment-additional-requirements-procedure)procedure

# [*Application for student enrolment*](https://ppr.qed.qld.gov.au/attachment/application-for-student-enrolment-form.pdf)form

# the original decision made under section 167 of the Act to refuse enrolment

# [*State special school enrolment parent consent and information*](https://ppr.qed.qld.gov.au/attachment/state-special-school-enrolment-parent-consent-and-information-form.docx)form

# [*Enrolment application principal referral*](https://ppr.qed.qld.gov.au/attachment/enrolment-application-principal-referral-form-oneschool.docx)form

# [*Education Adjustment Program (EAP) outcome (temporary attendance finalisation)*](https://ppr.qed.qld.gov.au/attachment/education-adjustment-program-eap-outcome-temporary-attendance-finalisation-form.docx)form (if relevant)

# List all documents used to make decision including any AIMS for OneSchool records

* [*Application for internal review of special school enrolment ineligibility*](https://ppr.qed.qld.gov.au/attachment/application-for-internal-review-of-special-school-enrolment-ineligibility.docx) form
* other information from other departmental officers, namely [insert details]
* *(insert relevant information obtained by this process adverse or potentially adverse to the applicant)*[insert details]

You have already been provided with a copy of all of the material considered.

**Findings of fact**

In consideration of the material mentioned above, I made the following preliminary findings of fact:

* To be eligible to enrol in a State special school, the prospective student must satisfy the following enrolment requirements as per s166 of the Act:
  + The prospective student is a ‘person with a disability’; and
  + The special school is able to cater for the educational needs of the prospective student.
* The [*Special school eligibility (‘person with a disability’ criteria)*](https://education.qld.gov.au/student/Documents/special-school-eligibility-policy.docx) *policy* sets out the criteria to be considered in deciding whether a person is a ‘person with a disability’ in accordance with s165 (2) of the Act.
* The [*Special school eligibility (‘person with a disability’ criteria)*](https://education.qld.gov.au/student/Documents/special-school-eligibility-policy.docx) *policy* provides that the prospective student **must meet the following criteria**:

1. the person has a disability as defined by the [*Disability Discrimination Act 1992*](https://www.legislation.gov.au/Series/C2004A04426)(Cwlth) (DDA); and
2. the person has a *severe disability* which includes an *intellectual disability;* and
3. the person is unlikely to attain the levels of development of which the person is capable unless the person receives special education; and
4. the person’s educational program is best delivered in a special school taking into account the appropriateness of this placement for the individual concerned.

***Criterion 1***

I [am/am not satisfied] that [insert prospective student’s name] meets Criteria 1 of the Special school eligibility policy: The person has a disability as defined by the [*Disability Discrimination Act 1992*](https://www.legislation.gov.au/Series/C2004A04426)(Cwlth) (DDA), because:

* [example text: [insert prospective student’s name] has been diagnosed as having xxx, which means they have a disability for the purposes of the DDA.
* [insert prospective student’s name] has not been diagnosed as having a disability as defined by the DDA.

***Criterion 2***

I [am/am not satisfied] that [insert prospective student’s name] meets Criterion 2 of the Special school eligibility policy: The person has a severe disability that includes an intellectual disability, because:

* Insert reasons

***Criterion 3***

I am/am not satisfied that [insert prospective student’s name] meets Criteria 3 of the Special school eligibility policy: The person is unlikely to attain the levels of development of which the person is capable unless the person receives special education, because:

* [example text: [insert prospective student’s name] requires an educational program appropriate to the needs of his disability and additional to, or otherwise different from, educational programs and services generally available to persons of the relevant age who are not persons with a disability.

***Criterion 4***

I [am/am not] satisfied that [insert prospective student’s name] meets Criterion 4 of the Special school eligibility policy: The person’s education program is best delivered in a special school taking in to account the appropriateness of this placement for the individual concerned, because:

* [example of text: [insert prospecitve student’s name] has demonstrated a range of knowledge and skills that are above those typically achieved by a student in Prep whose educational program is best delivered in a special school. With support from a familiar adult [insert prospective student’s name]
* [insert prospective student’s name] does not have the range of complex support needs typical of a student whose program is best delivered in a special school. He does not require:
  + a health management plan to be in place as he is described as medically stable and he has been seizure free since September 2017
  + assistance with mobility
  + assistance with personal hygiene, he can toilet independently
  + an alternative communication system or access to specialised assistive technology.

**Reasons for my decision**

I have made my decision for the following reasons:

* To be eligible to enrol in a State special school, a prospective student must satisfy the requirements for enrolment in a special school in accordance with s166 of the Act.
* As I am not presently satisfied that [insert prospective student’s name] meets all four of the criteria in the Special school eligibility (‘person with a disability’ criteria) policy, I am not satisfied that [insert prospective student’s name] is a ‘person with a disability’ as that term is defined in s.165 of the Act.
* I am therefore not presently satisfied that [insert prospective student’s name] meets the requirements for enrolment in a special school and in accordance with s.167(2) of the Act I will likely be obliged to decide to refuse [insert prospective student’s name] enrolment at the school.

If either the first or second paragraph has been chosen, include the following paragraph:

< If confirming original decision of ineligibility, examples include:

* Given the material considered and my findings of fact I am not satisfied that the prospective student is a person with a disability for the purposes of s.166(1)(a) EGPA; and / or
* Given the material considered and my findings of fact I am not satisfied that for the purposes of s.166(1)(b) of the Act that the special school preferred in the application is able to cater for the educational needs of the prospective student.
* Given my findings in respect of….., I am obliged by s.167(2) of the Act to decide to refuse the application for enrolment of the applicant student at ….. State special school.>

**Your appeal rights**

If you are dissatisfied with my review decision, you may apply to the Queensland Civil and Administrative Tribunal (QCAT) for a review of my review decision. To make an application to QCAT you must:

* complete QCAT application Form 23 (available at <http://www.qcat.qld.gov.au/applications/forms>);
* state the reasons for your application; and
* file your application in the QCAT Registry
  + *in person*: Queensland Civil and Administrative Tribunal, Level 9, Bank of Queensland Building, 259 Queen Street, Brisbane QLD 4000, or at any Magistrates Court outside of the Brisbane CBD; or
  + *by mail*: QCAT, GPO Box 1639, Brisbane 4001.

For further information please see <http://www.qcat.qld.gov.au/applications/lodging-your-application-and-forms> or contact QCAT on 1300 753 228.

Your application must be filed in the registry within **28 days** after the day you are notified of this decision. The start of a proceeding for review by QCAT does not affect the operation of this decision; however, you may wish to make an application for an order staying the operation of my decision. Please contact QCAT for further information in this regard.

A copy of this letter has been sent to the principal, [insert details]<insert name of Special School>, and relevant departmental officers as specified below.

Thank you again for your application, and I wish [student name] every success in the future.

Yours sincerely

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| --- | --- |
|  |  |
| Regional Director |  |

Cc: Principal, [name of state special school]

Regional staff as relevant [please specify]

Enc: EGPA section 394