



# Hostile people on school premises, wilful disturbance and trespass procedure

Version: 3.1 | Version effective: 30/06/2022

## Audience

All state schools

## Purpose

This procedure outlines the options available under the Education (General Provisions) Act 2006 (Qld) (EGPA), to assist Principals and school staff in preventing and managing unsafe situations on the premises of state educational institutions (whether they have buildings on them or not, or whether or not the conduct occurs in school hours).

## Overview

The Department of Education is committed to taking all reasonable steps to provide a safe environment for staff, volunteers, students, parents and visitors at State educational institutions. Section 5 of the [Education \(General Provisions\) Regulation 2006 \(Qld\)](#) makes a principal responsible for the safety and overall management of state instructional institutions.

This includes events such as wilful disturbance, trespassers, distribution of non-education documents, and also processes for obtaining information from the person/s and giving directions to the person/s regarding their conduct or movement at the school.

At all times, proportionate and graduated responses should be applied when managing difficult or dangerous situations, ensuring adherence to laws, and always acting reasonably and dispassionately. It is important to ensure, before exercising one of the below powers, that the person concerned is not an exempt person.

Queensland Police should be contacted immediately if the behaviour of a person is of a serious nature, such as if there is a threat of physical danger, and request the police to remove the person from the school in accordance with police powers. In some circumstances, and only when necessary, physical intervention may be required if there is a genuine threat to a safe school environment (see [Chief Executive's Guideline: No.01/2012](#))

If a form is required to be given to a person (see sections 337, 340 of the EGPA) the form may be given by:

- The principal, by handing it to the person concerned (the Principal must complete a [Record of Giving A Form](#))

- The principal, by sending it to the person's home address as recorded on school records by registered post (the Principal must complete a [Record of Giving A Form](#)). Please note that posting the form can delay its effectiveness;
- Where appropriate, engaging the Queensland Police Service or a process server to serve the form on the person (ensure that the police or process server complete an affidavit of service concerning the giving of the form);

A copy of the signed form must be kept as an official record and for evidentiary purposes

A number of checks and balances have been included in the EGPA to minimise misapplication of the powers such as appeal and review options relative to each section.

## Responsibilities

### Principals

Under the EGPA, Principals may complain to the Queensland Police Service and/or exercise one of the below powers (ensuring the person/s is not an exempt person for the section) where:

#### **Dealing with wilful disturbance (s.333 EGPA) Note: students are exempt**

- a person wilfully disturbs the good order or management of a state educational institution, or
- a person insults an officer of a state educational institution in the presence or hearing of a student of the institution who is in or about the school premises, or assembled with others for educational purposes at, or in, any place.
- Principals should follow any complaint to Queensland Police with consideration of giving a s.337 direction, a s.339 direction or a s.340 direction or seeking a s.341 direction.

#### **Dealing with trespassers (s.334 EGPA)**

- A person is on the premises of a state educational institution without lawful authority or a reasonable excuse

Note: this may not apply to parents of a student at the school during school hours because they may have a reasonable excuse to be at the school in relation to the child.

- Principals and school staff when using physical force to restrain or eject from the premises a person who becomes abusive or violent must comply with the [Chief Executive's Guideline: No.01/2012](#).
- Principals should follow any complaint to Queensland Police with consideration of giving a s.337 direction, a s.339 direction or a s.340 direction or seeking a s.341 direction.

#### **Dealing with distribution of non-education documents (s 67 EGPR)**

- A person distributes a non-education document on the premises of a school, without the permission of the institution's principal (does not apply to documents lawfully distributed by a minister of religion or accredited representative in accordance with s.30(1) EGPR).
- Principals should follow any complaint to Queensland Police with consideration of giving a s.337 direction, a s.339 direction.

### Giving a s.336 EGPA direction (requirement to state name and residential address)

- May:
  - require a person on state instructional institution premises to state their name and residential address only if intending to issue a direction under s.337 or s.339
  - require the person to give evidence of the correctness of their name and address, if they reasonably suspect the details supplied are false and warn the person that it may be an offence to fail to state their name and residential address
  - photograph or video the person if they refuse to give their name and address, being careful to use this record appropriately and making it available only to people who need to have the information for the purposes of prosecuting an offence.

### Giving a s.337 EGPA direction (30 day 'good behaviour' direction)

- May give a person a [written direction](#) (Note: this direction may not be used to exclude a person from a state instructional institution's premises), for a period of up to 30 days after the direction is issued, about the person's conduct or movement at the state instructional institution, if the direction is necessary:
  - to ensure the safety and wellbeing of other persons lawfully at the premises
  - to prevent or minimise damage to the premises or to property at the premises;
  - to maintain good order at the premises
  - for the proper management of the institution
- Unacceptable behaviour not occurring on school premises may also be taken into account when considering a s.337 direction. Behaviour, such as threatening or nuisance telephone calls, e-mails and social media commentary/posts may be referred to external agencies, such as the police or a telecommunications provider for action, but may also be taken into account for the purposes of deciding if a direction is necessary to be given for the reasons outlined above.
- If a school principal is concerned for the health and wellbeing of a staff member/s as a consequence of hostile references in social media commentary/posts, the principal should consider [sending the template letter](#) prepared for this purpose
- Keep in mind that the direction applies for thirty ordinary days, not 30 school days AND does not prohibit the person from the school premises.

### Giving a s.339 EGPA direction (24 hour prohibition from school premises)

- May give a person an [oral direction](#) requiring the person to immediately leave and not re-enter the state instructional institution for 24 hours after the time the direction is actually given to the person, if the person:
  - has committed or is about to commit an offence at the premises
  - has used or is about to use threatening, abusive or insulting language towards another person at the premises
  - has engaged in or is about to engage in threatening or violent behaviour towards another person at the premises
  - does not have a good and lawful reason to be at the premises

- The oral direction must include:
  - the terms of the direction; and
  - the ground for the direction; and
  - the time during which the person may not re-enter the premises (which must not exceed 24 hours).
- Principals may print out, laminate and carry with them a standard script for giving a [s.339 oral direction](#)

### Principal actions

- if a person is in breach of a direction, complain to the police immediately AND consider giving a s.340 direction to the person.
- notify the Regional Director of directions being issued under sections 337, 339 or 340
- Complete the Form Record of giving a [s.339 direction](#)
- ensure that in following any course of action they do not put themselves or their staff in a potentially harmful situation

### Giving a s.340 EGPA direction (60 day prohibition from school premises)

- In general s.340 directions should be reserved for circumstances in which another less serious direction (s.337, s.339) is insufficient. This will usually arise in circumstances where the less serious directions have been breached, there have been multiple less serious directions (tending to establish that the person is incorrigible) or the circumstances of a person's behaviour are so serious that it merits immediate, serious consequences (for example, serious assault on school premises of any person, wilful damage to school property or serious threats of violence to persons or property at the school)
- Should the principal decide that behaviour would warrant the application of the power in s.340 OR if the behaviour amounts to a breach of an existing s.337 direction or would result in a further s.337 direction being given, use the [template letter](#) for completing a draft direction
- May contact LALB and seek advice on the making of the direction before issuing it. (Please note that s.340 directions are subject to internal review)
- Make every effort to ascertain the parent's name and address in cases involving a prohibition order on a child (not a student of the school) for up to 60 days. This is because in making the direction to prohibit the principal must make every effort to notify the child's parent of the decision.
- Use judgment as to whether a person is a child or not, which may involve asking students how they know the person or the person's history.
- If a school principal decides that it would not be appropriate for them to issue a s.340 direction personally (for example, the principal believes that it would be inappropriate if they acted themselves because it would be a breach of natural justice), then the principal may recommend that the Director-General or delegate make the direction instead.
- The Principal should have reference to the Request to issue s.340 direction briefing template and template Request s.340 letter for this purpose.

### Asking for a s.341 EGPA direction to be made (prohibition from school premises for more than 60 days, but not more than 12 months)

- Where a case is serious enough (repeated breach of s.337 or breach of s.340 direction, actual or threatened serious violence to a staff member, student or other person) that it is appropriate to ask the Director-General or delegate to make a direction prohibiting a person from a state school for a period of 12 months.
- Regions will seek advice from the Office of the Director-General or delegate, should the principal decide that the level of severity of the disruption, abuse or violence would warrant the application of the power in s.341 of the EGPA, or other legal action
- Regions will use the [template briefing note](#) and template preliminary view letter for making this request.
- Make every effort to ascertain the parent's name and address in cases involving a prohibition order on a child (not a student of the school) for more than 60 days. This is because the Director-General or delegate, in making the direction to prohibit must make every effort to notify the child's parent of the direction or application.
- Use judgment as to whether a person is a child or not, which may involve asking students who know the person or the person's history.

### Asking for a s.352 or 353 EGPA Order to be applied for (12 Month prohibition from all state and non-state school premises)

- Where a case is serious enough (repeated breach of s.337 or s.340 direction, actual or threatened serious violence to a staff member or student at more than one state or non-state school) that it is appropriate to ask the Director-General or delegate to apply to QCAT for an order prohibiting a person from all state or non-state schools for a period of 12 months.
- Seek advice from the Office of the Director-General or delegate, should the principal and the Regional Director decide that the level of severity of the disruption, abuse or violence would warrant the application of the power in ss.352 or 353 of the EGPA, or other legal action
- Make every effort to ascertain the parent's name and address in cases involving a prohibition order on a child for more than 60 days. This is because the Director-General or delegate, in making the direction to prohibit must make every effort to notify the child's parent of the application.
- Use judgment as to whether a person is a child or not, which may involve asking students who know the person or the person's history.

### Regional Director:

- Co-signs/approves requests for directions under ss.341, 352, 353 to the Director-General or delegate as the matter may require
- Compiles records of all s.337, 339 and 340 directions given by staff under their supervision for the purposes of the department's annual report.
- May consult with Legal and Administrative Law Branch (LALB) in respect of the drafting of s.341 directions and progress of such requests to the Director-General or delegate

**Director-General or delegate:**

- Upon the making of a submission against a s.337 direction, confirms or cancels the directions according to the timeline provided in s.338 of the EGPA
- Compiles records of all s.338 appeals for the purposes of the department's annual report.
- May consult with LALB in respect of [directions under s.341](#)
- Records details of the exercise of the powers conferred under the EGPA for inclusion in the department's annual report.

**Director-General:**

- May consult with LALB in respect of applications to QCAT under s.352
- May apply to QCAT for an order prohibiting a person from entering all state schools for up to one year under s.352
- May consult with LALB in respect of applications to QCAT under s.353
- May apply to QCAT for an order prohibiting a person from entering all state and non-state schools for up to one year under s.353
- Records details of the exercise of the powers conferred under the EGPA (including the direction to leave and not re-enter the premises for 24 hours) in the department's annual report.

**Process**

See above in responsibilities.

**Definitions**

| <b>Term</b>  | <b>Definition</b>  |
|--|--|
| <b>Non-education document</b>                      | Means a document other than a document used in delivering an educational program to students of the institution.   |
| <b>Premises of a State educational institution</b> | Means the building and/or lands that make up a state educational institution.  |
| <b>State educational institution</b>               | Means an educational institution established under section 13,14 or 15 of the EGPA, and includes State primary, secondary and special schools, environmental education centres and outdoor education centres, centres for the support and development of teachers and officers of the department, student hostels or student residential colleges. |
| <b>State instructional institution</b>             | Means an educational institution established under sections 13 or 14 of the EGPA and includes State primary, secondary and special schools, environmental education centres and outdoor education centres.   |



| Term                 | Definition  |
|----------------------|---|
| <b>Exempt person</b> | For the purposes of s.333 of the EGPA, means a person who was at the relevant time a student of the relevant State educational institution. For the purposes of sections 336, 337, 339-341, 352-353 of the EGPA, it means a student or pre-prep child of or an employee of the department engaged to perform work at the relevant State instructional institution premises. |

## Legislation

- [Education \(General Provisions\) Act 2006](#) (EGPA) Chapter 12, Parts 5, 6 and 8
- [Education \(General Provisions\) Regulation 2006](#) (EGPR)
- [Police Powers and Responsibilities Act 2000](#) Section 48(1)
- [Work Health and Safety Act 2011](#)

## Delegations/Authorisations

- Nil

## Policies and procedures in this group

- Nil

## Supporting information for this procedure

- [Chief Executive's Guideline No. 012012](#)
- [Form 337 - Template direction about conduct or movement](#)
- [Form 340 - Template direction letter for 60 day prohibition](#)
- [Record of giving forms - s.337 or s.340](#)
- [Region letter - Sections 340 and 340A](#)
- [s.340A Template Briefing Note](#)
- [s.340A Template Decision Letter](#)
- [Standard script for giving a s.339 oral direction](#)
- [Template decision letter Section 341 - Application to DG or delegate to prohibit entry to school premises for more than 60 days](#)
- [Template DG or delegate GBN: Section 341 - Application to DG or delegate to prohibit entry to school premises for more than 60 days](#)
- [Template letter 341: Principal to RD - Request for action](#)
- [Template preliminary view letter Section 341 - Application to DG or delegate to prohibit entry to school premises for more than 60 days](#)

- [Template record of giving a s.339 oral direction](#)

## Other resources

- [School Security procedure](#)

## Contact

DoE employees, please contact:

In the first instance contact a Principal Advisor at the Regional Office.

For legal assistance, contact the Legal Services on (07) 3513 5800 or by email at [advicerequest.LEGAL@qed.qld.gov.au](mailto:advicerequest.LEGAL@qed.qld.gov.au)

Persons subject to action in accordance with this procedure should obtain their own independent legal advice.

## Review date

15/07/2015

## Superseded versions

*Previous seven years shown. Minor version updates not included.*

Nil

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