



# Proposed Amendments to the Senior Practitioner Act 2018

Submission by  
The Association of Independent Schools of the  
ACT (AISACT)

December 2018

## Introduction

The ACT independent school sector provides a diverse range of schooling options to families living in the ACT and in the surrounding region, and to families needing boarding school facilities.

Independent schools play an important role in providing educational alternatives to those provided by the government sector. The ACT community is multicultural and diverse and the independent school sector reflects this. It should be a basic premise that parents should have a choice, where possible, about where their child is educated. There are many reasons underpinning parental choice, including pedagogical style, learning environment, faith, values, gender, school culture and pastoral structures.

Independent schools have emerged in direct response to community demand and have a long history of accepting an educational leadership role in the national capital, and a shared role with governments, in setting up schools in the ACT.

In the end, it is about parents finding a school which provides the best 'fit' and, therefore, the best opportunities for success for their child.

All students, irrespective of where they are educated, are entitled to a high quality of education, and it is the responsibility of governments to provide a suitable level of funding for all students to achieve quality outcomes.

The Association represents all eighteen independent schools which together educate 14,514 students, or around 19% of the ACT school population (29% of ACT high school students attend Independent schools). Enrolment in Canberra's Independent schools has historically been very strong, and have seen a 21% increase in student enrolment over the past 10 years.

Independent schools in the ACT have a wide range of student populations, with the smallest school having 27 students and the largest over 1800 students.

## Feedback

The Association of Independent Schools of the ACT (AISACT) welcomes the opportunity to provide a submission regarding the proposed amendments to the *Senior Practitioner Act 2018* ('the Act'), following release of the Consultation Paper calling for community feedback. AISACT feedback is provided below:

### Summary of proposed amendments:

1. Definition of 'chemical restraint': It is proposed that the definition of 'chemical restraint' under Section 7(2) of the Act be updated to align with the NDIS Quality and Safeguarding Framework. The amended definition of chemical restraint would be "the use of medication or a chemical substance for the primary purpose of influencing a person's behaviour or movement."

*AISACT comment: AISACT supports this, and is of the view that amending the definition to ensure there is greater alignment with the NDIS Framework provides greater clarity.*

2. Emergency restrictive practices: The Act currently specifies that use of a restrictive practice by a provider must be in accordance with a registered positive behaviour support plan for the person. A provider must monitor and make a record of any use of restrictive practices under the plan and notify the senior practitioner about the use of restrictive practices in accordance with guidelines made under the Act. These requirements fail to recognise the situation where imminent harm is reasonably anticipated to either the person or others, and restrictive practice is used as an emergency response. Amendments are proposed to support providers to report all uses of a restrictive practice to the Senior Practitioner, whether there is a positive behaviour support plan in place for the person or not.

*AISACT comment: AISACT recognises the intent of the amendment to provide for the reporting of such emergency response use of restrictive practice outside a behaviour support plan. However, AISACT suggests that this may also create confusion and therefore needs greater clarity on the reporting process, and the implications that this reporting may have on schools in their day to day operations.*

3. Section 46 – Offence for using restrictive practices outside a registered positive behaviour support plan: Offences under the Act are due to come into effect on 1 July 2019. The Act creates an offence for a provider, or relevant person for a provider, who uses a restrictive practice outside of a registered positive behaviour support plan, with a penalty of six months in prison. Whilst the Act allows a person to mount a defence that the restrictive practice was necessary to prevent serious and imminent injury or illness to any person; or that they were acting reasonably under the instruction or direction of the provider or otherwise in accordance with the provider’s policy, concerns have been raised that the possible imposition of penalties in these instances may prohibit open disclosure and collaboration with the Senior Practitioner. Amending the Act to provide for the use of emergency restrictive practices in duty of care situations may limit the need for the offence under Section 46. Penalties would still remain under Section 47 for providers who fail to comply with a direction from the Senior Practitioner.

*AISACT comment: AISACT supports the removal of the penalty in Section 46.*

The AISACT appreciates that with the appointment of a Senior Practitioner and the implementation of the *Senior Practitioner Act 2018*, there is and will continue to be a need for an educative process to ensure that, in particular, schools are best placed to support students, and will reduce and hopefully eliminate the need for the use of restrictive practices.

Andrew Wrigley  
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**Association of Independent Schools of the ACT**  
December 2018