



# A guide for approved authorities on the use of recurrent funding

## How the Australian Education Act 2013 applies to Approved Authorities

### Purpose of this guide

This document is to assist approved authorities to understand and comply with their obligations regarding the use of Australian Government recurrent funding under paragraph 78 (2)(a) of the *Australian Education Act 2013* (the Act) and section 29 of the Australian Education Regulation 2013 (the Regulation), which relate to the use of financial assistance payable under the Act.

This document provides guidance on how recurrent funding may be spent, or committed to be spent, from 2018 onwards. This document is designed for approved authorities in both the non-government and government schooling sectors, including state and territory governments, non-government school systems, and approved authorities for independent non-government schools.

This document is not intended to provide legal advice. Approved authorities should exercise due diligence, make their own independent judgment and seek independent advice as necessary about the requirements on the use of recurrent funding as set out in the Act and the Regulation. Non-government approved authorities seeking more information on their obligations under the Act and Regulation should contact their non-government representative body.

### Funding for schools

State and territory governments provide the majority of public funding for government schools, while the Australian Government provides the majority of public funding for non-government schools. Schools supplement public funding with funding from other sources, including fees and other contributions from school communities.

Recurrent funding is provided under the Act to help approved authorities meet the general recurrent costs of providing school education at their schools.

## Contents

A guide for approved authorities on the use of recurrent funding .....	1
Purpose of this guide.....	1
Funding for schools .....	1
Use of recurrent funding .....	3
School education .....	3
Recurrent costs of providing school education .....	3
Loan or credit facility repayments.....	4
Principal payments .....	4
Interest payments .....	4
Examples.....	4
Important matters related to loans and credit facilities .....	4
Restrictions on the use of recurrent funding .....	4
Restrictions on the use of recurrent funding as security, or for litigation related matters .....	4
Restrictions on the use of recurrent funding for capital purposes .....	5
Schools with zero percent capacity to contribute.....	5
National Redress Scheme .....	6
Timeframe for spending or committing to spend recurrent funding.....	6
Need more help? .....	6

## Use of recurrent funding

Paragraph 78(2)(b) of the Act requires approved authorities to manage financial assistance payable under the Act according to the Regulation. Section 29 of the Regulation sets out the main requirements for approved authorities' use of recurrent funding provided under the Act.

Recurrent funding (including any interest earned on recurrent funding banked or invested by the approved authority) *must be spent, or committed to be spent*, by an approved authority:

- for the purpose of providing school education at a school for which the approved authority is approved
- by the end of the calendar year in which it was paid to the approved authority<sup>1</sup>.

## School education

Recurrent funding must be used for the purpose of providing school education, that is, primary education or secondary education, as defined in section 15 of the Act.

Recurrent funding cannot be used for:

- pre-school education or programs
- early childhood education and care
- before and after-school care or vacation care
- vocational education and training that is not part of a recognised secondary school curriculum.

## Recurrent costs of providing school education

Subsection 29(2) of the Regulation sets out a non-exhaustive list of examples of general recurrent costs of providing school education, including:

- salaries and other expenses relating to staff at the school, including expenses related to the professional development of the staff
- developing or purchasing materials related to the school's curriculum, such as textbooks, art supplies or sporting equipment
- general operating expenses of the school, for example:
  - utility bills
  - insurance costs
- maintaining the school's land and buildings, for example:
  - routine maintenance or repairs to school buildings (such as repairing doors, windows, or guttering)
  - replacing like for like fixtures (such as carpets)
  - school grounds upkeep, such as mowing
- purchasing capital equipment for the school, for example:
  - non-fixed desks
  - chairs
  - portable air conditioning/heating
  - computers and other information and communication technology
- administrative costs associated with the approved authority's compliance with the Act and the Regulation. For example:
  - staff costs in meeting Australian Government reporting requirements

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<sup>1</sup> This requirement applies unless the Minister has determined a different time limit, under paragraph 29(7)(b) of the Regulation. Please note, an extension of time to expend or commit recurrent funding is generally only provided in exceptional and unforeseen circumstances.

- participating in NAPLAN or other national assessments.

## Loan or credit facility repayments

### Principal payments

Repayment of a loan or credit facility that is directly related to the provision of school education at a school for which the authority is approved is permitted, unless it is for purchasing land or buildings, the construction of buildings, or parts of buildings, or capital improvements.

### Interest payments

Interest payments for a loan or credit facility that is directly related to the provision of school education at a school for which the authority is approved is an acceptable use of recurrent funding. This includes interest payments on a loan or credit arrangement for capital purposes<sup>2</sup>.

### Examples

- An approved authority has an overdraft facility with an authorised deposit-taking institution, which the authority uses to meet the fortnightly wage costs of teachers at the school. The approved authority can use recurrent funding to meet both the principal and interest payments on that overdraft.
- An approved authority has a loan for the construction of a new school building. The approved authority can use recurrent funding to meet interest repayments on the loan. However, as noted above, the use of recurrent funding to repay the principal amount is not permitted.

### Important matters related to loans and credit facilities

Approved authorities must ensure any arrangement for a loan or credit facility is documented, including:

- the approved authority's decision-making process to enter into the loan or credit facility
- evidence demonstrating the arrangement adheres to the authority's financial policies
- evidence demonstrating any actual or perceived conflicts of interest have been disclosed and adequately managed
- the terms of the arrangement<sup>3</sup>.

The documentation requirements extend to loans or credit facilities with subsidiary entities of the approved authority. In addition, the repayment terms of any such loan or credit facility must not be more than reasonable market value.

## Restrictions on the use of recurrent funding

Subsection 29(3) of the Regulation sets out some specific restrictions on approved authorities' spending of, or committing to spend, recurrent funding.

### Restrictions on the use of recurrent funding as security, or for litigation related matters

An approved authority, for either a government or non-government school, must not use recurrent funding:

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<sup>2</sup> Interest payments on loans or credit arrangements for capital purposes are expressly allowed by subsection 29(3A) of the Regulation.

<sup>3</sup> Failure to maintain this documentation may lead the Australian Government to actively consider whether the approved authority is meeting its basic requirements for approval under section 75 of the Act.

- As security to obtain any form of loan, credit, payment or other interest. For example, an approved authority must not use recurrent funding as a guarantee for the provision of a loan or credit facility from an authorised deposit-taking institution, no matter the purpose for that loan or credit facility.
- For the preparation of or in the course of any litigation<sup>4</sup>. For example, to meet a compensation or discrimination claim by a current or former staff member, or student, of a school of the approved authority.

## Restrictions on the use of recurrent funding for capital purposes

An approved authority for a non-government school that has a capacity to contribute greater than zero per cent<sup>5</sup> **must not** use recurrent funding for:

- the purchase of land or buildings for the school
  - For example, recurrent funding cannot be used to purchase an adjacent block of land, including any buildings on that land, for an expansion of the school, or land in another location for an additional campus of the school.
- the construction of a building, or part of a building, for the school
  - For example, recurrent funding cannot be used for any construction of a building, or part of a building, at the school that does not constitute maintenance or repairs. This could include but is not limited to, the construction of any new or modified classroom, administration building, multipurpose room, school hall, bus/bike shelter, shed, sporting facility, walkway, or ramp.
- Capital improvements for the school
  - For example, recurrent funding cannot be used for any non-building construction related capital works or fixtures that lead to a capital improvement. This could include but is not limited to, affixed air conditioning/heating units, sports grounds, swimming pools, basketball and netball courts, other sporting facilities, fencing, carparks, gates, garden shelters, or affixed security features.
- Any form of loan, credit facility, or other interest in relation to the above.
  - In this context, 'other interest' refers to legal interest, for example, an option to purchase land. Note, however, that interest payments on a loan or credit arrangement for capital purposes (identified above) are recognised as a general recurrent cost of providing school education and are allowed under subsection 29(3A) of the Regulation.

## Schools with zero percent capacity to contribute

The restrictions on the use of recurrent funding for capital purposes *do not apply* to approved authorities for schools that have a capacity to contribute of zero per cent.

The following schools have zero capacity to contribute (as noted under section 54 of the Act):

- all government schools
- special schools
- special assistance schools
- sole provider schools
- majority Aboriginal and Torres Strait Islander schools for a year.

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<sup>4</sup> An exception to this is where the litigation relates to action by a state or territory government to recover Australian Government recurrent funding from an approved authority for a non-government school.

<sup>5</sup> Schools that have a capacity to contribute of zero per cent are all government schools, and all non-government special schools, special assistance schools, majority Aboriginal and Torres Strait Islander schools and sole-provider schools. Please refer to section 54 of the Act. If you are unsure as to whether your school is one of these types of schools, please contact the Australian Government Department of Education.

These schools may use recurrent funding for purchasing land or buildings, the construction of buildings, or parts of buildings, capital improvements, or any related loan, credit or other arrangements (including interest repayments), *providing it is for the school and for the purpose of providing school education*.

## National Redress Scheme

An approved authority must not spend, or commit to spend, recurrent funding for the purpose of making, or contributing to, a payment under the National Redress Scheme for Institutional Child Sexual Abuse.

## Timeframe for spending or committing to spend recurrent funding

Recurrent funding must be spent, or committed to be spent, by 31 December of the calendar year the funding was received.<sup>6</sup>

An approved authority commits to spend<sup>7</sup> recurrent funding where:

- either:
  - the authority has entered into a non-cancellable legal arrangement under which the authority will be liable to pay an amount, or
  - an amount will become due or payable under a liability under a law of the Commonwealth, a State or a Territory that the authority is required to meet (for example, certain taxes)and
- the time for paying the amount has not yet arisen and the authority sets aside all, or part of, the recurrent funding to pay the amount.

Committed expenses must meet the requirement of costs to provide school education as described above.

## Need more help?

For further assistance, or if you have questions about the use of recurrent funding, please contact us via:

- phone: 1800 677 027 (option 2)
- email: [schoolsassurance@education.gov.au](mailto:schoolsassurance@education.gov.au).

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<sup>6</sup> This requirement applies unless the Minister has determined a different time limit, under subsection 29(7) of the Regulation. Please note, an extension of time to expend or commit recurrent funding is generally only provided in exceptional and unforeseen circumstances.

<sup>7</sup> Section 4 of the Regulation defines the term 'commit to spend'.