

PUBLIC ADMINISTRATION ACT 2004

INSTRUMENT OF DELEGATION BY THE SECRETARY TO THE DEPARTMENT OF EDUCATION AND EARLY CHILDHOOD DEVELOPMENT

1. PURPOSE

The purpose of this instrument is to delegate the powers and functions specified in Schedule 1 conferred on the Secretary to the Department of Education and Early Childhood Development by the *Public Administration Act 2004*.

2. AUTHORITY

This instrument is made under the powers conferred by section 18 of the *Public Administration Act 2004*.

3. REVOCATION

All previous instruments of delegation that delegate any powers and functions are revoked to the extent that they delegate powers or functions under the *Public Administration Act 2004*. The revocation under this clause 3 of a previous instrument does not affect the validity of anything done pursuant to that instrument prior to its revocation.

4. DELEGATION

Subject to clause 5, I, PROF. PETER DAWKINS, Secretary to the Department of Education and Early Childhood Development, hereby delegate the powers and functions described in columns 2 and 3 of schedule 1 applicable to an employee other than an executive to the officers occupying, or for the time being performing the duties of the delegate level described in column 4 of schedule 1. A delegate of a function may, subject to the limitations and conditions to which the delegation is subject under clause 5, sub-delegate that function to any other person or persons or body if such sub-delegation is permitted under column 5 of schedule 1. Schedule 2 identifies the offices nominated at each delegate level.

The delegates are instructed to observe and comply with the limitations in clause 5 of this instrument. The failure of the delegate to observe or comply with a limitation referred to in clause 5 does not, for that reason only, affect the validity of the exercise of the delegation.

5. LIMITATIONS AND CONDITIONS

5.1 DEFINITIONS

For the purposes of this instrument:

"Act" means the *Public Administration Act 2004*.

“Action” means a decision and includes refusal to take an action.

“DEECD” means the Department of Education and Early Childhood Development.

“Employee” means a non executive employee.

5.2 CONSISTENCY WITH OTHER LAWS AND POLICY

The delegations and sub-delegations made by clause 4 are subject to:

- (a) A delegate or sub-delegate must conform with any specific limitations on the exercise of the delegated power imposed on the Secretary by or under the Act or the Regulations.
- (b) A delegate or sub-delegate exercising a delegated power must do so in conformity with:
 - (i) the public sector values set out in Section 7 of the Act;
 - (ii) any binding code of conduct;
 - (iii) the public sector employment principles set out in Section 8 of the Act;
 - (iv) standards issued by the Public Sector Standards Commissioner;
 - (v) any other relevant provisions of the Act or regulations;
 - (vi) any applicable Federal Act or Law;
 - (vii) any applicable Victorian Act or Law; and
 - (viii) existing department policy and instructions issued by or on behalf of the Minister for Education and/or the Secretary to the Department of Education and Early Childhood Development.

6. DATE OF EFFECT

This instrument takes effect on and from the day it is made.

Dated this 2nd day of August 2009

PROF. PETER DAWKINS

Secretary

Department of Education and Early Childhood Development

SCHEDULE 1

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POWERS AND FUNCTIONS

Delegation Reference No	Public Administration Act Reference	Description of Power/Function	Delegate Level	Sub-Delegate
PS 1.1	Public Administration Act 2004 Part 3-Public Service Employment Division 4-Employees Section 20-Employment & retirement (1)	Employ as many persons as are required for the exercise of the functions of DEECD.	Level 1 Level 2	No
PS 1.2	Public Administration Act 2004 Part 3-Public Service Employment Division 4-Employees Section 20-Employment & retirement (1)	Assign work to employees.	Level 1 Level 2	Yes
PS 1.3	Public Administration Act 2004 Part 3-Public Service Employment Division 4-Employees Section 20-Employment & retirement (1)	Issue lawful instructions that must be observed by employees.	Level 1 Level 2	Yes

Delegation Reference No	Public Administration Act Reference	Description of Power/Function	Delegate Level	Sub-Delegate
PS 1.4	Public Administration Act 2004 Part 3-Public Service Employment Division 4-Employees Section 20-Employment & retirement (1)	Determine (with the approval of the Premier in the case of an executive) the remuneration (including an increase or reduction in remuneration) and other terms and conditions of employment of any individual employee.	Level 1 Level 2	No
PS 1.5	Public Administration Act 2004 Part 3-Public Service Employment Division 4-Employees Section 20-Employment & retirement (1)	Pay allowances, bonuses or gratuities to employees.	Level 1 Level 2	No
		Pay allowances for performance of higher duties.	Level 1 Level 2	Yes
PS 1.6	Public Administration Act 2004 Part 3-Public Service Employment Division 4-Employees Section 20-Employment & retirement (1)	Transfer an employee to duties in other public service bodies or in public entities.	Level 1	No

Delegation Reference No	Public Administration Act Reference	Description of Power/Function	Delegate Level	Sub-Delegate
PS 1.7	Public Administration Act 2004 Part 3-Public Service Employment Division 4-Employees Section 20-Employment & retirement (1)	Suspend employees from duty with pay.	Level 1	No
PS 1.8	Public Administration Act 2004 Part 3-Public Service Employment Division 4-Employees Section 20-Employment & retirement (1)	Second employees to other bodies or take employees on secondment from other bodies.	Level 1 Level 2	No
PS 1.9	Public Administration Act 2004 Part 3-Public Service Employment Division 4-Employees Section 20-Employment & retirement (1)	Authorise periods of leave of absence for employees or make payments to employees in lieu of leave.	Level 1 Level 2	Yes

Delegation Reference No	Public Administration Act Reference	Description of Power/Function	Delegate Level	Sub-Delegate
PS 1.10	Public Administration Act 2004 Part 3 – Public Service Employment Division 4-Employees Section 20-Employment & retirement (1)	Extend a period of probation or confirm the employment on completion of a period of probation.	Level 1 Level 2	No
PS 1.11	Public Administration Act 2004 Part 3-Public Service Employment Division 6-Transfer of employees Section 28-Transfer directed by public service body Head or public entity (1)	Transfer an employee to another public service body or in a public entity with the approval of the Head of the other public service body or of the public entity concerned on terms and conditions of employment that are no less favourable overall.	Level 1	No

Delegation Reference No	Public Administration Act Reference	Description of Power/Function	Delegate Level	Sub-Delegate
PS 1.11A	Public Administration Act 2004 Part 3-Public Service Employment Division 6-Transfer of employees Section 28-Transfer directed by public service body Head or public entity (1A)	Approve the transfer of an employee of a public entity to DEECD, if a public entity considers it appropriate to do so, on terms and conditions of employment that are no less favourable overall.	Level 1	No
PS 1.12	Public Administration Act 2004 Part 3-Public Service Employment Division 7-Restriction on Employees Doing Other Work Section 32 (1)(a)	Grant express permission for a full-time employee to engage in any other paid employment.	Level 1 Level 2	Yes
PS 1.13	Public Administration Act 2004 Part 3-Public Service Employment Division 7-Restriction on Employees Doing Other Work Section 32 (1)(b)	Grant express permission for a full-time employee to carry on any business, profession or trade.	Level 1 Level 2	Yes

Delegation Reference No	Public Administration Act Reference	Description of Power/Function	Delegate Level	Sub-Delegate
PS 1.14	Public Administration Act 2004 Part 3-Public Service Employment Division 7-Restriction on Employees Doing Other Work Section 32 (2)	Form the opinion that a part time employee engaged in other paid employment or carrying on a business, profession or trade is in conflict with the proper performance of the employee's duties.	Level 1 Level 2	Yes
PS 1.15	Public Administration Act 2004 Part 3-Public Service Employment Division 7-Restriction on Employees Doing Other Work Section 32 (3)	Withdraw by notice in writing permission to an employee to engage in any other paid employment or carry on any business, profession or trade.	Level 1 Level 2	Yes

SCHEDULE 2

OFFICES TO WHICH THE POWERS AND FUNCTIONS ARE DELEGATED

OFFICE

Level 1

Deputy Secretary, Office for Children & Portfolio Coordination, Department of Education and Early Childhood Development
Deputy Secretary, Office for Resources & Infrastructure, Department of Education and Early Childhood Development
Deputy Secretary, Office for Government School Education, Department of Education and Early Childhood Development
Deputy Secretary, Office for Policy, Research & Innovation, Department of Education and Early Childhood Development
Chief Executive Officer, Victorian Curriculum and Assessment Authority
Director, Victorian Registration and Qualifications Authority
Senior Chairperson, Merit Protection Boards

Level 2

All persons from time to time holding General Manager, Regional Director and Executive Director offices or positions in the Department of Education and Early Childhood Development.