

INDEPENDENT OFFICE

FOR SCHOOL DISPUTE RESOLUTION

*Working with parents, students and schools
to resolve issues through an independent,
simple and fair process.*

VICTORIA

ABOUT THE INDEPENDENT OFFICE

When a complex dispute arises between a parent or a student and a Victorian government school, and it hasn't been resolved by the Department's complaints process, we're here to help work through it. We all want the best outcome for students and their education and the Independent Office is here to help resolve the dispute.



We help resolve current, escalated, complex disputes arising in Victorian government schools. When handling a dispute, we support everyone (parents, students and principals) to problem solve the issues. We all want the best outcome for students and their education. We are here to help resolve the dispute, and ensure Victoria remains at the forefront of inclusive school communities and excellence in education.

We are independent of the Department of Education and Training (the Department). We use alternative dispute resolution (ADR) approaches to allow everyone involved to work through the issues in a timely way and at no financial cost.

Each individual matter is treated according to its needs. We take a flexible approach to help people reach a workable solution. If this is not possible, we can make recommendations to the Department about what to do.

WHAT TO DO IF YOU HAVE A COMPLAINT

Increased support for schools and regions to resolve complaints at a local and regional level are being put in place by the Department, as part of a new *Responsive School Complaints Framework*. Parents and students should always talk to school staff in the first instance, as they are best placed to discuss any concerns.

Step one: The classroom teacher or year level coordinator may be able to help you. If you need to make a formal complaint, raise this with the Assistant Principal or Principal in the first instance.

Step two: If the school cannot resolve your concern, you can raise your complaint with the local regional office. A Community Liaison Officer may be appointed by the Area Executive Director to work with you, the school and other local experts to help resolve the complaint.

Step three: If the matter remains unresolved, you can contact the Department's Central Complaints Team. If it still can't be resolved quickly, the matter can be referred to the Independent Office if it is eligible. You can contact the Independent Office directly if you think your matter should be considered by the Office.

WHAT IS ALTERNATIVE DISPUTE RESOLUTION (ADR)?

ADR is a way of avoiding courts or other legal decision making processes. A legal process applies strict standards based on rights, rules, and evidence, focusing mainly on the past and who was wrong. Legal forums are often costly, lengthy, distressing, and damaging to relationships.

An ADR approach assists people to find a practical solution to a dispute, looking for ways to improve the situation going forward. The issues creating conflict are identified and discussed so that everyone's point of view is understood. With the right process assistance, everyone can work towards a sustainable resolution to keep ongoing relationships healthy and the education system working effectively for the student.

WHO WE ARE

The Independent Office is overseen by an independent Chair and two Deputy Chairs, appointed by the Minister for Education. The Chair and Deputy Chairs are experts in ADR.

The Office can draw upon two pools of experts depending upon the needs of each matter:

- Experts in school education
- Experts in the potential topics of dispute (e.g. child development, cultural liaison, disability, family disputes, mental health, and bullying prevention)

VALUES

We act:

- Independently
- Inclusively
- Respectfully
- Quickly

MATTERS THE INDEPENDENT OFFICE CAN RECEIVE

For the Independent Office to receive a matter, it must meet the following criteria:

1. It's about a Victorian government school **decision or action**
2. It is **complex and intractable**. For example, it's already been raised with and considered by the school and the Department's complaints process, and remains unresolved.
3. It is suitable for **ADR**. For example, participants are respectful and willing to discuss the matter in good faith and there remains a live issue in the school to resolve.

More information on the eligibility criteria

1. The Independent Office can deal with disputes related to a Victorian government school **decision or action**, for example:
 - Access and inclusion issues
 - Wellbeing and engagement issues
 - Management of medical issues
 - Responses to bullying
 - Appropriate settings for students at risk or disengaged students
 - Other decisions or actions under school policies that are not governed by law (for more information on what is governed by law, see 'Matters the Independent Office cannot receive').

2. The Independent Office cannot receive or review old matters that have already been finalised by the Department. The Office can deal with **complex and intractable** disputes. This means that the matter:

- Presents complex (i.e. difficult) issues that needs supported discussion (and perhaps independent expert knowledge) to resolve
- Has been considered by both the school and the Department's complaints process, and remains unresolved.

***NOTE:** All issues must first be raised with the school and regional office which are best placed to resolve disputes. If you are unable to lodge the dispute with the school, raise it with the regional office. If the complaint remains unresolved, the Department's Central Complaints team will receive the matter, who can refer your matter to the Independent Office if it is eligible. If you have legitimate concerns about raising the issue with the Department, you can contact the Independent Office for assistance. The Office will only be able to receive such matters directly where legitimate concerns exist, such as significant conflicts of interest or risks to students' health and wellbeing.*

3. The matter must also be suitable for the Independent Office's **ADR** approach. This means:

- There is a current problem to be resolved (e.g. a live issue)
- There is an opportunity for all involved to reach an agreeable and achievable outcome
- It is safe to ask everyone to participate (e.g. there is no history of threats or violence)
- All parties are willing
- It does not represent unreasonable complainant conduct (e.g. is 'vexatious').

Whether a matter is suitable for the Office can be reviewed by the independent Chair.

***NOTE:** The Victorian Ombudsman notes that all complainants must be treated with fairness and respect, and that every matter must be considered on its merits. 'Unreasonable complainant conduct' is "behaviour which, because of its nature or frequency, raises substantial health, safety, resource or equity issues for the parties to a complaint". Such conduct can include unreasonable persistence, excessive demands, lack of cooperation, and unreasonable arguments or behaviours.*

MATTERS THE INDEPENDENT OFFICE CANNOT RECEIVE

Not complex or intractable

Decisions or actions relating to the everyday school operations that are within the Department's policies are generally not complex or intractable. This will generally include issues relating to uniforms, class placements, zoning, or other similar issues. The Independent Office will consider all issues involved in the dispute when determining if it is complex or intractable.

Matters outside the scope of the Independent Office

Some matters are outside the powers of the Independent Office, potentially due to law, other entities handling the matter, or if the matter could be handled by a more appropriate entity. Matters outside the scope of the Independent Office include decisions or actions about:

- School Councils
- Department program or policy decisions (e.g. eligibility for funding under the Program for Students with Disability)
- Staff disciplinary action (staff misconduct and unsatisfactory performance) human resources or industrial relations (including matters dealt with by other bodies e.g. Victorian Institute of Teaching, Merit Protection Board, Disciplinary Appeals Board)
- Actions taken by a Student Attendance Officer (e.g. issuing of a warning notice)
- Decisions made by the Principal as occupier of the school land (e.g. conditions of entry, issuing of Trespass Warning Notice).

Disputes may still be able to go to the Independent Office if there is a live issue in the school to resolve, and it can be discussed without reference to issues that are out of scope for the Office.

If the dispute indicates a systemic problem, the Independent Office may provide a recommendation to the Department that the policy or practice be reviewed or updated, or further action taken to address the problem.

The Independent Office will also not take matters that are being considered elsewhere (e.g. if the dispute is currently being handled by the Victorian Ombudsman or a court, statutory board or tribunal).

Matters that may require further action in relation to employee conduct

Some matters that involve a dispute with the school may also require further action by the Department in relation to the conduct or performance of a staff member, under the Department's *Guidelines for Managing Complaints, Misconduct and Unsatisfactory Performance*. If this is the case, the Independent Office will only be able to deal with any matters arising between the parent or student and the school, and will not be able to discuss or consider any employment matters relating to Department staff.

REFERRING A DISPUTE

Normally a dispute will be referred to us by the Department's Central Complaints Team as part of the Department's normal complaints escalation process, if it is eligible.

If you think that your dispute has not been referred to the Independent Office but should have been, you can lodge an application directly with us. You must show how the matter meets the eligibility criteria. We will need to contact the Department to check the details of the matter, and may need to refer you back to the Department if the matter has not yet been raised there first, unless there are legitimate concerns for not raising the matter with the Department.

NOTE: *Students should attend school, even if there is an ongoing dispute, unless there are significant and reasonable concerns about the students' safety, health or wellbeing. If these legitimate concerns exist, they should be made clear in contact with the Department, so that the concerns can be properly assessed and the matter can be dealt with urgently. These concerns can also be considered by the Independent Office.*

IF THE INDEPENDENT OFFICE ACCEPTS A MATTER FOR CONSIDERATION

Each individual matter will be treated according to its needs. An individual matter may be managed by the Chair of the Office, the Deputy Chair, or an individual Expert. In some circumstances, two or three members of the Office will convene as a group to work on a matter. All members of the Office will adopt ADR approaches to resolving matters, with the primary focus on achieving an outcome acceptable to all involved.

HOW THE INDEPENDENT OFFICE UNDERTAKES ITS WORK

Support will be made available to help those involved work towards a solution. A member of the Independent Office will contact the parent or mature student, as appropriate, and either the regional office or school. The Independent Office can collect information, and may arrange a meeting at a mutually agreeable location. Someone from the Office may also help participants prepare separately for the meeting. At this meeting, also called a conciliation conference, a support person can help you discuss the matter. Subject matter experts can help to problem solve the issues.

POSSIBLE OUTCOMES OR AGREEMENTS

Various outcomes can be achieved through having the dispute handled by the Independent Office. Primarily, the Independent Office strives to assist students, parents and principals to reach an agreed outcome.

IF THE DISPUTE REMAINS UNRESOLVED

Where it is not possible to resolve a matter, the Independent Office can then assess the information it has and make recommendations to the Department about what to do. The Independent Office will not have authority to impose or apply an outcome.

Having the matter received by the Independent Office does not remove the right to contact other entities such as the Victorian Ombudsman, the Victorian Equal Opportunity and Human Rights Commission, the Victorian Civil and Administrative Tribunal (VCAT) or the courts. However, if other entities are engaged, then the Independent Office will generally have to stop working on the matter unless it is appropriate to continue (e.g. whether the matter can be split to resolve immediate issues about the student's ongoing education without discussing anything to do with the matter before the other entity).

IMPROVING THE SYSTEM

The Independent Office also works with the Department to improve its overall complaints management. When workable solutions are reached to complex problems, these can help make improvements across the whole system.

CONTACTING THE INDEPENDENT OFFICE

You can contact the Registrar:

Email: school.resolution@edumail.vic.gov.au

Phone: 1300 017 593

Postal address: Level 4 Casselden Place, 2 Lonsdale Street, Melbourne, 3000

Website: www.schoolresolution.vic.gov.au

FREQUENTLY ASKED QUESTIONS FOR PARENTS

I'm lodging a complaint with my school, can the Independent Office assist?

The Independent Office can provide advice and guidance on navigating the Department's complaints process, however, the Office cannot lodge a complaint with a school, regional office or the Department on your behalf. The Independent Office can assist you directly once the issue remains unresolved following the Department's usual complaints process and it is eligible for our Office's consideration. The following resources may be able to provide support or assistance:

Parents Victoria - www.parentsvictoria.asn.au

The Victorian Student Representative Council - www.vicsrc.org.au

A listing of further references for support or assistance can be viewed here:

<http://www.education.vic.gov.au/childhood/parents/support/Pages/familyservices.aspx>

When do I access the Independent Office?

The Independent Office can be utilised if you have raised your complex dispute at a school and regional level, it has been addressed and the issue remains unresolved.

What can I expect when attending the Office?

An independent, respectful and accessible dispute forum in order to have your escalated and complex Victorian Government school dispute addressed quickly.

What if I currently have a dispute that is unresolved, can I send it directly to the Independent Office?

The Central Complaints team will typically assess the unresolved dispute in order to determine if it is suitable for the Independent Office.

Can I raise an unresolved dispute from more than 12 months ago?

In order for a dispute to be considered by the Independent Office, it needs to relate to a live and current dispute with a Victorian government school that is unresolved and has been through the Department's complaints process. The Independent Office cannot receive or review old matters that have already been finalised by the Department.

I have a dispute with an independent or Catholic school, what should I do?

Disputes with Victorian Catholic schools should be made to the relevant regional office of the Catholic Education Commission of Victoria.

<https://www.cem.edu.au/About-Us/Policies/Complaints.aspx>

The Victorian Registrations and Qualifications Authority investigates potential breaches of registration standards about Victorian independent schools.

www.vrqa.vic.gov.au/complaints/Pages/default.aspx

How do I contact the Independent Office?

The Independent Office can be contacted via telephone at 1300 017 593 or via email at school.resolution@edumail.vic.gov.au

Is a mutually agreed outcome by the Independent Office binding?

The outcome is an agreement between the parent and school that is followed and maintained in good faith.

Will the Independent Office advocate for parents or students?

No, the Independent Office is independent and is not an advocacy service for anyone. Everyone involved will be provided with an opportunity to raise any unresolved issues.

Are there any costs associated with having the dispute taken to the Independent Office?

The Independent Office provides a free service and there is no cost to either party.

How long will the dispute process take?

The complexity of the dispute may mean that timeframes differ, but contact or a response will occur within 10 school days.

If a parent or mature minor student is unhappy with the outcome achieved by the Independent Office, what can be done?

The outcome of the Independent Office review does not prohibit parents or mature minor students from pursuing the issue in an alternate forum. The Independent Office is, however, the final avenue of review available through the Department.

FREQUENTLY ASKED QUESTIONS FOR PRINCIPALS

I have concerns that the complaint is unreasonable (e.g. vexatious), what can I do?

The Independent Office does not accept unreasonable complainant conduct, vexatious disputes; or disputes that are not made in good faith, for example malicious complaints.

Will I be required to participate in the process set up by the Independent Office?

You or the relevant staff member will be asked to participate in good faith in order to work towards a resolution to the dispute.

What if the complainant continues to raise the same issue with the school following the review by the Independent Office?

If the parent continues to raise an issue with the school following an outcome being reached by the Independent Office, then it would be best to seek advice from the Independent Office and refer to the terms outlined in the agreement. The Independent Office is the final avenue of review for the complainant available through the Department.

Are statistics and outcomes of Independent Office cases published in any reporting? If so, are the schools de-identified?

An annual report will be produced, along with short-term reporting, as needed. All reporting will ensure that school and complainant details are de-identified.

I need assistance managing a dispute

Assistance for managing a dispute can be provided from the regional office. Contact your Area Executive Director who may allocate a Community Liaison Officer.

Can I refer a dispute to the Independent Office?

You can escalate the dispute to your Area Executive Director following the Department's Complaints policy. The Area Executive Director will usually appoint a Community Liaison Officer to help resolve the dispute. If the region is unable to resolve the dispute, the region can escalate it to the central office. The central office refers eligible matters to the Independent Office as the third and final tier of escalation for eligible matters. Under exceptional circumstances, the region may refer the matter directly to the Office.

If you feel that the matter could be resolved with the assistance of the Independent Office, you should let your regional office know.