

Non-Government Schools Not-For-Profit Advisory Committee

How do the not-for-profit requirements apply to Parents & Friends (P&F) associations and groups of volunteer parents or other bodies who raise funds for a non-government school?

P&F associations are generally structured in one of the following ways:

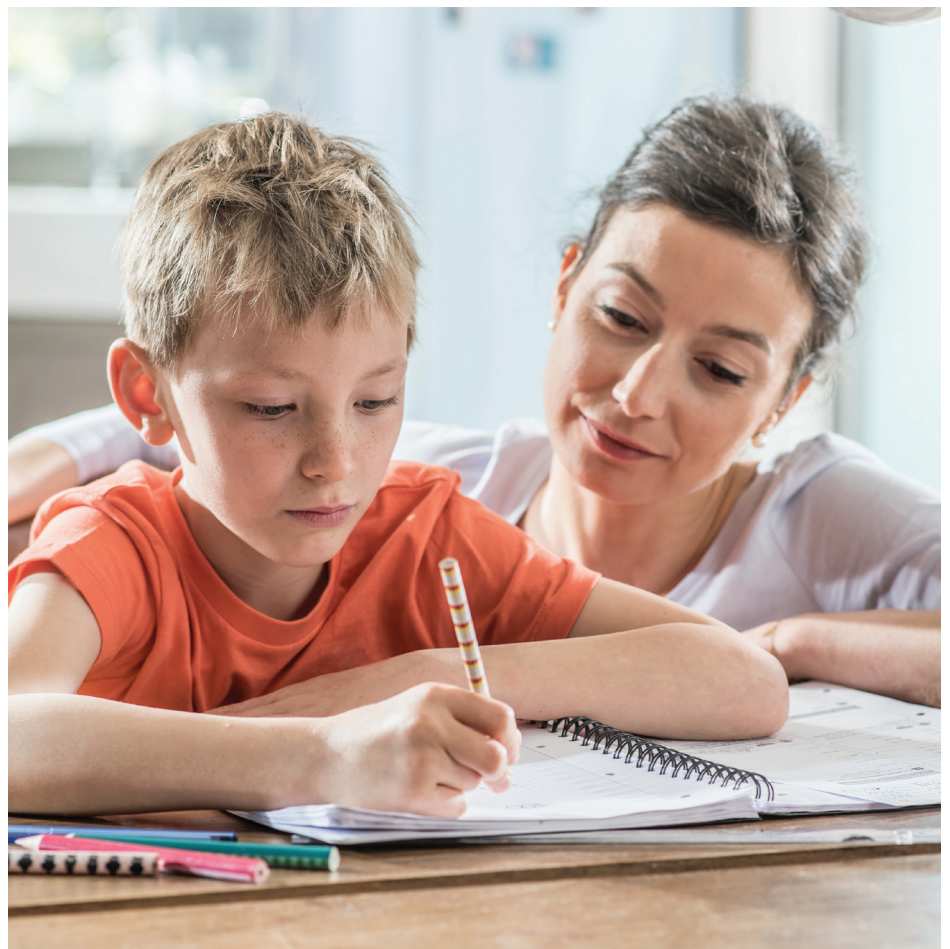
- Separate legal entity - as incorporated associations under the NSW *Associations Incorporation Act 2009*.
- No separate legal entity - as a volunteer group of parents under the governance structure of the school.

The potential application of not-for-profit requirements to P&F associations or groups of parents or other bodies, is based upon their legal status.

Separate Legal Entity

Funds raised by a separate legal entity to the school are outside the legislative requirements of Division 3 of the NSW *Education Act 1990* so long as those funds are not paid to the school. If the funds raised are paid to a school, those funds would then become an asset of the school and as such are subject to the requirements of the Act.

- P&F associations affiliated with non-government schools can be set up as incorporated associations with a separate legal entity in their own right under the NSW *Associations Incorporation Act 2009*.



No Separate Legal Entity

If a group of volunteer parents and friends come together to pursue a common purpose (such as raising funds

for the school or organising community engagement events) they usually do not have separate legal status and cannot enter into contracts in their own name, purchase assets or open bank accounts.

This group of volunteer parents and friends usually operates as a notional



sub-entity of the school and is subject to the school’s purchasing policy and any other school policies and procedures (including related party transactions, conflict of interest and other governance requirements) that the non-government school is required to adhere to.

This group does not possess any assets as such assets are purchased by the school and maintained on the school asset register or in the usual way that such assets are documented.

Any funds raised by such a group are included in the school’s assets and income and subject to all the requirements contained within the not-for-profit provisions of the Act, as is the associated non-government school.

SUMMARY		
P&F Structures	Legal Status	Not-for-Profit Application
P&F associations structured as incorporated associations under the <i>NSW Associations Incorporation Act 2009</i> .	Separate Legal Entity	Funds raised by a separate legal entity to the school may be outside the legislative requirements of Division 3, Section 83 of the <i>NSW Education Act 1990</i> , so long as those funds are not paid to the school. Funds raised and paid to a school become an asset of the school and as such are subject to the requirements of the Act.
Groups of volunteer parents and friends established as notional not-for-profit sub entity of a school with the same ABN.	The group of parents and friends do not have a separate legal entity from the school.	Funds raised by volunteer parents and friends as a sub-entity of the school are within the requirements of Division 3, Section 83 of the <i>NSW Education Act 1990</i> and the funds need to be directed towards the operational needs of the school.

This does not constitute legal advice. Schools should, where appropriate, seek independent legal advice in relation to their specific circumstances.