

Submission

Exposure Draft Privacy (Children's Online Privacy) Code 2026

1. Introduction and APA's interest

The Australian Publishers Association welcomes the opportunity to comment on the Exposure Draft Privacy (Children's Online Privacy) Code 2026.

The APA supports stronger privacy protections for children and young people online. Children's personal information should be handled lawfully, fairly, transparently and in ways that reflect their best interests. Parents, carers, schools and young people should also have confidence that digital services used in education meet appropriate privacy, security and governance standards.

The APA's approximately 220 members include educational publishers that create Australian curriculum resources, textbooks, digital learning materials, teacher resources, assessment tools, supplementary learning platforms and related services used across Australian schools. These resources support literacy, numeracy, disciplinary knowledge, curriculum delivery, teacher workload management, assessment and student learning, and many are developed specifically for Australian curricula, syllabuses and classroom practice.

Digital delivery is now a normal part of educational publishing. Publishers may provide online textbooks, interactive learning resources, teacher dashboards, reading platforms, assessment environments, accessibility tools and usage support. Some services collect limited personal information or learning-related data where necessary to authenticate users, allocate licences, track progress, support teachers, provide accessibility features, maintain security or meet contractual and educational obligations.

These services are materially different from consumer-facing, "freemium", advertising-funded or data-monetising services that derive value from children's behaviour, attention or personal information.

The Code should regulate higher-risk practices without treating all digital educational services as if they involved the same risk profile.

Many educational publishers already provide products through school, system or institutional licensing arrangements and are subject to privacy, procurement, security and data-governance requirements, including Education Services Australia's Safer Technologies for Schools framework and state, territory, Catholic and independent-sector requirements.

The APA supports EduGrowth's submission and its call for refinements to make the Code more effective, workable and nationally consistent in educational settings. This submission complements EduGrowth's position by focusing on educational publishers and high-quality third-party educational content within the broader education technology ecosystem. The APA concurs with EduGrowth that children's privacy protections should not vary materially according to jurisdiction, school sector or procurement pathway, and that OAIC guidance should clarify how responsibilities are allocated among schools and systems, publishers, EdTech providers, learning management systems, identity and authentication providers, platform providers and, where relevant, higher education and vocational education providers.

2. Recommendations at a glance

Issue	Recommended OAIC action
Education-sector workability	Publish education-specific implementation guidance before commencement. This change will require a comprehensive communications and education campaign to ensure education providers, technology providers of all kinds and other stakeholders understand their obligations. Failure to support the sector will likely undermine the efficacy of the Code.
Proportional compliance obligations	Distinguish lower-risk institutional education services from higher-risk consumer, freemium, advertising-funded, profiling or data-monetising services. Scale obligations to risk, business model, provider function, data practices and existing sector obligations. Clarify how the Code applies to large international providers ("big tech") handling children's personal information in school or child-facing contexts.
ST4S and existing frameworks	Recognise ST4S and equivalent state, territory, Catholic and independent-sector assessment processes as relevant compliance evidence.
Transition period	The education sector requires 12-24 months to implement new requirements.
School settings	Clarify age ascertainment, consent, child assent, school-authorised use, deletion, correction, retention, complaints, PIAs and registers.

Regulatory impact analysis	Examine impacts on non-government schools, educational publishers, curriculum-aligned SMEs, Australian-created learning materials, school procurement and competition with global platforms.
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3. Align the Code with actual privacy risk and provider scale

The APA supports strong regulation of services that collect, infer, profile, analyse, disclose or commercialise children's personal information in ways unrelated to education. **The Code should focus on services that monetise children's attention or data, rely on behavioural advertising or targeted marketing, profile children across contexts, share data with third parties for commercial purposes, use manipulative design or recommender systems to increase engagement, or collect more personal information than is necessary.**

Educational publishers generally operate on a different model. Their services are commonly licensed, subscribed to, procured or authorised by schools, school systems or institutions. Their digital products are designed to support curriculum, teaching, learning, assessment and access to educational content. Data collection is typically functional rather than extractive.

The Code should therefore distinguish lower-risk institutional education services from higher-risk consumer digital services. Relevant criteria should include whether the service is school-authorised, educational in purpose, data-minimising, non-advertising, non-profiling, subject to ST4S or equivalent assessment, and governed by school contracts or statutory retention obligations.

This is not an argument for excluding educational publishers from privacy obligations. It is an argument for aligning obligations with actual risk, data practices and educational function.

The same principle should apply to major technology providers. **If the Code is to have regulatory weight, it must apply effectively to the large platforms and infrastructure providers that shape children's digital environment, including in schools.** Otherwise, Australian SMEs, specialist EdTech providers and educational publishers may bear the main compliance burden while larger global providers remain practically outside the regime because of definitional uncertainty, infrastructure characterisation, contractual positioning, jurisdictional complexity or enforcement difficulty.

The OAIC should publish coverage and enforcement guidance explaining how the Code applies to major domestic and international providers where their services handle children's personal information, including where relevant cloud services, identity systems, productivity suites, app ecosystems, browsers, search, analytics tools, AI tools, learning-management integrations and general-purpose platforms deployed in schools. The guidance should also address attempts to avoid responsibility by characterising a service as merely infrastructure, intermediary or back-end provision where it materially determines the handling of children's personal information.

4. Implementation must build on existing education-sector compliance

The Code is expected to be finalised and registered by 10 December 2026, but the Exposure Draft does not specify commencement. If commencement occurs shortly after registration, implementation will be unworkable for many education-sector providers.

Compliance would require review or redesign of privacy policies, consent processes, product settings, age-related communications, data-retention practices, complaints processes, PIAs, training, contracts, customer documentation and product workflows. For publishers and smaller providers, this work may need to occur across multiple products, year levels, school systems and procurement cycles.

The education sector is not starting from a blank page. Schools and suppliers already operate within privacy, cybersecurity, procurement, contractual and data-governance frameworks. ST4S is a significant national mechanism for assessing digital products used by schools, alongside state, territory, Catholic and independent-sector requirements. Many APA members and related providers have already completed substantial compliance work under these frameworks.

The Code should build on this work, not duplicate it. **The APA recommends a minimum 24-month transition period after registration for education-sector services already operating under institutional procurement, ST4S or equivalent school-sector frameworks.** This should be supported by staged milestones, good-faith enforcement during implementation, SME guidance, model notices and clauses, simplified PIA templates, worked examples for school-authorised services, and early publication of final guidance.

The OAIC should work with Education Services Australia, school authorities and industry to map the Code against ST4S; recognise ST4S and equivalent state, territory, Catholic and independent-sector assessments as compliance evidence; develop common terminology, model clauses, template notices and risk-tiered examples; and avoid repeated, inconsistent assessments of the same product.

Without this coordination, the Code risks becoming another layer of regulatory complexity rather than a harmonising instrument. If earlier enforcement is considered necessary, it should focus first on higher-risk consumer, social, advertising-funded, freemium and data-monetising services.

5. Clarify how Code obligations apply in school settings

Several obligations in the Exposure Draft require education-specific guidance. Formal education is not a consumer app environment. Students often use digital services because a school, system or teacher has selected them for curriculum, assessment or learning purposes. Use may occur under school authority, procurement arrangements, enrolment arrangements, departmental rules, curriculum obligations or assessment requirements.

The APA recommends that the OAIC publish guidance before commencement on the following matters:

Scope and application. The Code should clarify how the statutory categories of social media service, relevant electronic service and designated internet service apply to education-sector

products, including digital textbooks, curriculum platforms, teacher dashboards, assessment tools, reading platforms, accessibility tools, learning analytics, school-authorised AI tools and integrated services supplied through schools or systems.

Age ascertainment. The Code should clarify how age ascertainment operates where a school has already verified student identity, enrolment, year level or class allocation. Providers should be able to rely on proportionate indicators such as year level, enrolment status, class membership or institutional account status where appropriate to the risk of the service, rather than collecting additional personal information for age assurance.

Consent and child assent. The Code should provide practical examples dealing with school-authorised use, parental consent, child assent, mandatory curriculum activities, assessment tools and teacher-selected resources. The APA supports clear, age-appropriate information for children, but the Code should not create duplicative consent or notification processes that are impractical in classrooms, confusing for parents or inconsistent with school duty-of-care obligations.

Deletion, correction and retention. Deletion and destruction obligations must be adapted to education settings. Some records may need to be retained for legal, contractual, audit, assessment, accreditation, child-safety, funding, security or school-administration reasons. The Code should distinguish between deletion of unnecessary personal information and deletion of educational records that a school or provider is required or authorised to retain.

Complaints and inquiries. The APA supports child-friendly inquiry and complaint pathways. However, in school settings a complaint may need to be handled by the school, supplier, platform provider or more than one party. Guidance should explain triage, referral, parent and child communication, and response expectations where relevant records or facts are held by the school.

Privacy impact assessments and registers. PIAs and registers should be proportionate and should not duplicate ST4S, procurement, departmental assessment or internal compliance work. The OAIC should provide simplified and sector-specific templates, guidance on when product changes require a new assessment, recognition of ST4S or equivalent material, protection for commercially sensitive information, and proportional register requirements. The objective should be accountability, not unnecessary paperwork.

6. Regulatory impact analysis should examine non-government schools and third-party content

The Code is likely to have a weighted effect on non-government schools and their suppliers. Non-government schools are generally covered by the Privacy Act and are major users of third-party educational content, including curriculum resources, digital textbooks, online platforms, assessment tools and teacher resources.

Schools will need to understand which services are compliant, how consent and notification should operate, and how school, publisher and platform obligations interact. Publishers may face increased

compliance expectations even where their services are low-risk, institutionally procured and educational in purpose.

If the Code increases cost, delay or uncertainty in supplying third-party resources, it may reduce choice for schools and teachers. Smaller Australian educational publishers may find it harder to maintain digital services, enter procurement processes or compete with global platforms.

The OAIC's regulatory impact analysis should examine effects on non-government schools, Catholic and independent systems, educational publishers supplying digital resources, curriculum-aligned SMEs, school procurement costs and timelines, the availability of Australian-created learning materials, and competition between Australian specialist providers and large global technology companies.

Children's privacy should be strengthened without unintentionally reducing access to quality educational materials.

7. Conclusion

The APA supports stronger privacy protections for children online, but the Code must be targeted, proportionate and workable in education settings.

The APA supports EduGrowth's submission and urges the OAIC to adopt an education-specific approach that recognises ST4S and existing school-sector compliance work, covers major technology providers in practice, and provides a realistic implementation period.

Properly designed, the Code can improve children's privacy without adding unnecessary cost, duplication or uncertainty for providers of trusted educational resources.

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