



**Senate Legal and Constitutional Affairs Committee
Inquiry into the Migration Amendment (Visa Capping) Bill 2010**

**Submission by
The Independent Schools Council of Australia (ISCA)**

About ISCA

The Independent Schools Council of Australia (ISCA) is the peak national body covering the independent schools sector. It comprises the eight State and Territory Associations of Independent Schools. Through these Associations, ISCA represents a sector with 1,100 schools and around 530,000 students, accounting for 15 per cent of Australian school enrolments.

Independent schools are a diverse group of non-government schools serving a range of different communities. Many independent schools provide a religious or values-based education. Others promote a particular educational philosophy or interpretation of mainstream education. Independent schools include:

- *Schools affiliated with larger and smaller Christian denominations for example, Anglican, Catholic, Greek Orthodox, Lutheran, Uniting Church, Seventh Day Adventist and Presbyterian schools*
- *Non-denominational Christian schools*
- *Islamic schools*
- *Jewish schools*
- *Montessori schools*
- *Rudolf Steiner schools*
- *Schools constituted under specific Acts of Parliament, such as grammar schools in some states*
- *Community schools*
- *Indigenous community schools*
- *Schools that specialise in meeting the needs of students with disabilities*
- *Schools that cater for students at severe educational risk due to a range of social/ emotional/ behavioural and other risk factors.*

Independent schools are not-for-profit institutions founded by religious or other groups in the community and are registered with the relevant state or territory education authority. Most independent schools are set up and governed independently on an individual school basis. However, some independent schools with common aims and educational philosophies are governed and administered as systems, for example the Lutheran systems. Systemic schools account for 16 per cent of schools in the independent sector.

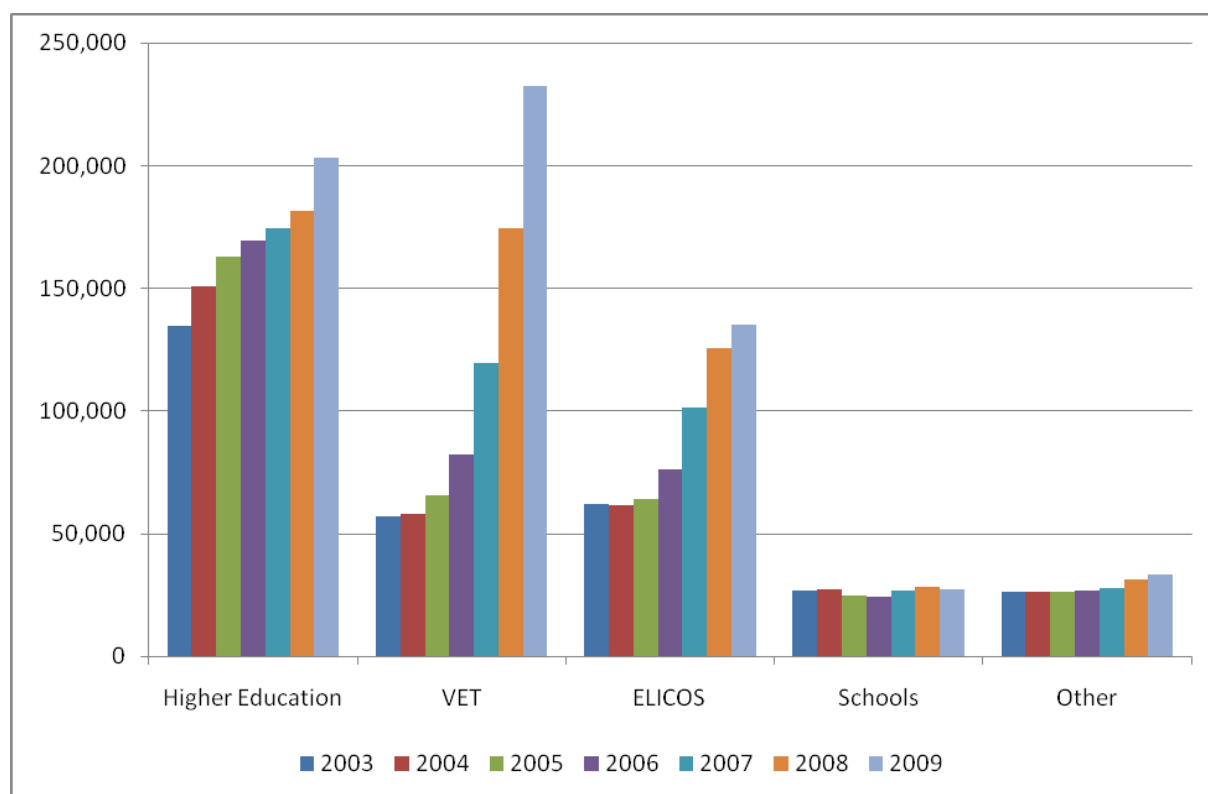
Independent Catholic schools are a significant part of the sector, accounting for 10 per cent of the independent sector's enrolments. These schools have been included in the figures above.



Independent Schools and International Education

1. Overseas students are an important part of the independent sector's diversity with more than 10,000 overseas students enrolled at nearly 400 independent schools¹. This represents less than half the total number of schools in the sector and enrolments in schools vary from 1 overseas student to nearly 400 overseas students. The median number of students at an independent school is 11 students.
2. This profile differs quite substantially from other sectors. For the vast majority of independent schools, overseas students do not determine the school's sustainability. Overseas students provide a much valued international element and diversity to school populations.
3. Chart 1 shows that overseas student enrolments in the schools sector have remained relatively steady for some years. Between 2003 and 2009 there was net increase of 560 students in the schools sector but the schools sector share of total overseas student enrolments fell from 9% to 4% as other sectors grew rapidly.

Chart 1: Overseas Student Enrolments by Sector 2003 – 2009²



4. Mid-2009 it became clear that enrolments in the non-government schools sector had started to decline. Most of this was attributed to a drop in enrolments from China which seems to be partly due to the flow-on effect of widely publicised safety concerns relating to Indian students and a number of college closures in the VET sector.
5. Chart 2 shows that there has been a drop in visa commencements across all sectors in the year to April 2010 excluding only the Higher Education sector. Experience would suggest

¹ Based on DEEWR Non-government School Census 2008 data

² AEI PRISMS Data

that given the pathway role of other sectors to the Higher Education sector, a drop in commencements in that sector is also likely.

Chart 2: Overseas Student commencements by Sector YTD April 2010³

<i>Sector</i>	<i>YTD April 2009</i>	<i>YTD April 2010</i>	<i>Growth %</i>
VET	56,031	53,914	-3.8%
Higher Education	49,165	53,567	9.0%
ELICOS	40,235	33,397	-17.0%
Other	13,078	12,996	-0.6%
Schools	7,905	7,050	-10.8%
Total	166,414	160,924	-3.3%

Purpose of the Migration Amendment (Visa Capping) Bill 2010

6. The Explanatory Memorandum for the Bill states that:

“The Migration Amendment (Visa Capping) Bill 2010 amends the *Migration Act 1958* to enable the Minister for Immigration and Citizenship to cap visa grants and terminate visa applications based on the class or classes of applicant applying for the visa.

In particular, the Bill will enable the Minister to make a legislative instrument to determine the maximum number of visas of a specified class or classes that may be granted in a financial year to visa applicants with specified characteristics, and treat outstanding applications for the capped visa as never having been made.

The proposed amendments are intended to address issues relating to the General Skilled Migration (GSM) visa program...The proposed amendments will address these issues by allowing for effective and targeted management of the GSM program.”

Concerns of the International Education Sector

7. The concerns of the international education sector lie in the fact that the proposed amendments are not limited to the General Skilled Migration program and these provisions could conceivably be applied to other temporary visa programs, including the student visa program, without consultation.
8. In the last ten years the student visa program has shifted to a relatively objective and transparent system of risk assessment and that is clear for both students and providers. The current system of allocating an Assessment Level based on both the country and the education sub-sector allows prospective students a degree of clarity regarding the benchmarks they are required to meet to obtain an Australian visa.
9. This Bill raises the possibility of the Minister for Immigration deciding to limit visas based on the nationality of individuals and reintroduces a degree of subjectivity which the temporary visa programs have moved away from in recent years.

³ AEI *Monthly Summary of International Student Data*, April 2010

Possible effect on the International Education Sector

10. In the Review of the Education Services for Overseas Students (ESOS) Act 2000 Final report, the Hon. Bruce Baird recognised the need for “sensitivity” and “avoiding sudden and significant policy changes” when making changes to visa regimes that will affect overseas students - past, present and future.

“While the Australian Government has the prerogative to change its migration policies at anytime, I think we also need to recognise that international students are taking a leap of faith and making a substantial investment of time and money in their future. As one student noted:

[The] Australian government lacks a coherent and long-term view on skilled migration policy. The frequent policy changes confuses us overseas students all the time. Policy uncertainty increases the uncertainty of coming to Australia to have our higher education. We want our investment worth the cost we have paid for it.”

I welcome the changes to the skilled migration program that recognise the impact on current students by allowing them to continue to apply for a temporary skilled visa enabling them to gain work experience in Australia and potentially gain an employer who will sponsor them for skilled migration. Making future provision for those international student graduates (or ‘grandfathering’ as it is known) currently pursuing temporary graduate visas shows some sensitivity to the situation these applicants may find themselves in now they have completed their course. Avoiding sudden and significant policy changes and grandfathering major changes to give providers some stability as well as sufficient time to adjust and better support the sustainability of the sector. However, I recognise that this will not always be possible or appropriate in the context of the myriad factors impacting on Australia’s skills needs.”⁴

11. There does not appear to have been either sensitivity or avoidance of “sudden and significant policy changes” exercised with regard to the Migration Amendment (Visa Capping) Bill 2010 of 25th May. The haste with which this Bill is currently being processed has not allowed time for in depth consideration of unintended consequences by industry stakeholders or by overseas student representative bodies.
12. Neither has there been a thoughtful, detailed explanation of this Bill’s intentions, actual powers and likely use. Limited consultation and the extremely tight timelines associated with the passage of this Bill have thus prompted media reports about fears of potentially negative impacts on past, present and future overseas students, and, consequently, further damage to Australia’s international education industry and reputation as a destination for overseas students.

Conclusion

13. ISCA supports approaches to visa changes, whether these be in relation to the Student Visa Program or the General Skilled Migration, that are:
- consultative;
 - measured in implementation;

⁴ Review of Education Services for Overseas Students (ESOS) Act 2000 Final report – February 2010, p 8.

- sensitive to the concerns and aspirations of overseas students who have completed studies and are currently still in Australia, who are currently studying in Australia or who intend to study in Australia in the future; and
- mindful of how changes can be implemented operationally.

14. Alarmist media coverage in an already fragile industry environment serves no useful purpose. In the current time of an already fast-paced reform agenda in provision of international education services, a whole of government approach, which takes a long term view of sustainability and management of reputation issues nationally and internationally, would be very welcome.

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ISCA

Canberra
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