

## **QUEENSLAND FEEDBACK ON THE AUSTRALIAN EDUCATION BILL 2012**

Thank you for the opportunity to provide feedback on the Australian Education Bill 2012 (the Bill). In addition to the Queensland Government's fundamental objections to the form and content of the Federal Government's school funding reforms outlined in the letter from the Premier of Queensland, Queensland has the following concerns with the Bill:

1. The Bill embodies the Australian Government's highly prescriptive approach to schools funding reform to date. The level of input control reflected in the Bill is not appropriate - some of the clauses should be removed entirely or specified through regulations or other administrative arrangements.
2. The relationship between the Bill and other key agreements is unclear, e.g. the National Education Reform Agreement, the Heads of Agreement, the National Plan for School Improvement, the Implementation Plan, the revised National Education Agreement etc.
3. The Bill sets out a complex set of authorities and relationships, which is compounded when overlaid with participating and non-participating status. In parts, the Bill switches between concepts of 'participating schools' and 'participating states and territories'.
4. The Bill gives the Minister too much discretion across the board, which runs counter to the objective for the new system to be simpler and more transparent. For example:
  - Section 13(1), which enables the Minister to determine if state or territory is a participating state or territory, overrides a state or territory's right to choose to be a non-participant;
  - Section 24(6) suggests the Minister may vary a school's total entitlement, regardless of the application of the formulae in Part 3;
  - Section 78(2) enables the Minister to vary an approved authority's status by adding any number of conditions;
  - Section 106(2) appears to allow the Minister to reduce or delay payment without justification; and
  - Section 102(1) and (2) suggests that the Minister can give a direction in relation to an IP and the approved authority must comply. Given that IPs are an agreement, does this mean the Minister would be able to vary content unilaterally?
5. It is not clear why Part 3 (Recurrent funding for participating schools) is needed in the primary legislation – the funding formulae are not easily described and it will require a change to the Act when they are adjusted, as is intended for some of the loadings over time.
6. Queensland is concerned about the requirement under Section 21(4) for the approved authority (i.e. the state) to be responsible for recovering overpayments to non-government authorities/schools. It is unclear how an overpayment would be identified and not appropriate to place the responsibility for collection of a debt to the Australian Government in the hands of the state, particularly when there may be a substantial cost associated with this function.
7. While there are penalties for non-compliance described in the Bill (Section 106(2)), the triggers to understand compliance or lack of compliance appear to be absent or insufficiently described. In addition, Section 104 appears to create a grey legal area of "is not complying". This concept needs to be properly defined in the Act so it is understood.
8. Section 20(c) includes a level of detail and control that Queensland does not support in the legislation. Of particular concern for Queensland is that when this is read in conjunction with section 78(d), Queensland's approved authority status could be revoked (and therefore its funding compromised) on the basis that Queensland is not implementing a certification process

for highly accomplished and lead teachers. Queensland is not a signatory to the Rewards for Great Teachers National Partnership Agreement which supported the introduction of this certification and Queensland has introduced its own comprehensive, evidence-based strategy for improving teaching quality – *Great teachers = Great results*.

9. Section 74, which lists a range of policy requirements for all approved authorities (including non-participants), should be removed:
  - Section 74(2)(d) is of particular concern because it requires the approving authority to develop, implement, publish and review a school improvement plan for each school in accordance with the regulations. This would mean the approved authority would be responsible for development of over 1400 school improvement plans for the Queensland state system. Putting aside whether Queensland supports development of annual school improvement plans, it is inappropriate for this to be a requirement of the approved authority rather than an individual school.
  - Under Section 74(3), provision of information to the Australian Government appears to be open-ended. There should be conditions based on the ability to request such information. For example it must be limited to existing data sets and comply with relevant guidelines such as NHMRC guidelines, which require informed consent.
10. The term 'funding' is used in an indiscriminate way throughout the Bill. The Bill should specify that it is referring to Australian Government funding. A key related issue is how the Australian Government funding will be determined in light of the fact that the funding model represents a pooled funding approach.
11. Division 5 refers to old and new per student amounts. It is unclear what the old per student amount refers to when the SPP has never been presented as a per student amount. It appears that a per student amount is being retrofitted to an arrangement in which it did not previously apply.
12. With respect to Section 61(3), it is difficult to understand how the AGSRC amount will be relevant under the new system (as advised at the meeting). Queensland would appreciate an explanation of how this provision would work in practice for a non-participating state / territory.
13. It is understood that the Regulations will not be completed prior to introduction of the Bill or the cut-off date for states and territories to sign up to the NERA. This means that states and territories will not have the full information to enable an informed decision. Queensland is particularly concerned that the regulations may compromise the capacity of Ministers to renegotiate Schedule D to the National Education Reform Agreement, as previously agreed.