

Chapter 1

Government Senators' Majority Report

Schools Assistance Bill 2008

1.1 On 15 October 2008 the Senate referred to this committee the provisions of the Schools Assistance Bill 2008 and the Education Legislation Amendment Bill 2008 for report by 27 November 2008.

Conduct of the inquiry and submissions

1.2 The committee advertised the inquiry on its website and in *The Australian* on 22 October 2008, calling for submissions by 31 October 2008. The committee also directly contacted a number of relevant organisations and individuals to notify them of the inquiry and to invite submissions and appearances before the committee. Fifty submissions were received as listed in Appendix 1. These appear on the committee's website.

1.3 A public hearing was held in Canberra on 19 November 2008. The witnesses are listed at Appendix 2.

Acknowledgement

1.4 The committee thanks all those who contributed to its inquiry by preparing written submissions and giving evidence at the hearing.

Background

1.5 The *Schools Assistance Bill 2008* (the bill) represents a change in the way Commonwealth funding is delivered to schools. The bill follows on, in part, the *Schools Assistance (Learning Together– Achievement Through Choice and Opportunity) Act 2004* which provided funding for both government and non-government schools for the period 2004–2008. This bill covers funding arrangements for non-government schools only. Future funding for government schools will be provided through the National Education Agreement, which is currently being negotiated with the states and territories through the Council of Australian Governments (COAG). The bill will align the non-government school sector with the reporting requirements for government schools to be set out in the National Education Agreement.¹

1.6 The bill provides an estimated \$28 billion of funding for non-government schools for the period 2009–2012. It will apply transparency and accountability

1 Marilyn Harrington, 'Schools Assistance Bill 2008', *Bills Digest*, no. 37, p. 2.

requirements to the non-government sector that are the same as government schools. This means, for the first time, the performance of non-government schools will be scrutinised in the same manner as government schools, with both sectors providing information on performance, finances and programs. The introduction of these measures gives effect to the Government's election commitment to improve transparency in all schools.²

1.7 The bill also provides funding for Indigenous students attending non-government schools. Previously, this funding was appropriated under the *Indigenous Education (Targeted Assistance) Act 2000*. The Education Legislation Amendment Bill 2008 will amend this Act for this purpose. The Education Legislation Amendment Bill 2008 is discussed in Chapter 2.

1.8 The bill represents the government's commitment to provide scrutiny of Commonwealth funding for non-government schools for the next quadrennium. The government has set the goal of making Australia 'one of the most highly educated and skilled nations on earth'³, and of improving school standards. Part of this improvement is ensuring that all schools are bound by the same reporting and transparency requirements. Another key element is the proposed implementation of a national curriculum to make educational standards consistent across the country. Ultimately, the government is hoping this bill will reduce the gap in the perception of quality between government and non-government schools and focus attention on the real needs of schools, rather on divisive issues which have affected school policy in the past. This was explained by the Hon. Julia Gillard MP in her speech to Independent Schools Council of Australia Parliamentary Forum:

For too long the debate about schools was diverted into unproductive avenues. Public schools were pitted against private, traditional curriculum was pitted against new, and academic ends were pitted against technical. That era is now over. The true target of our efforts must be individual students no matter which type of school they attend. The Commonwealth has embarked on a new direction.⁴

1.9 Submissions received by the committee supported the bill being passed expeditiously to ensure funding for non-government schools is provided in time for the new quadrennium, commencing early in 2009. However, this support was conditional on certain issues being addressed, namely the implementation of a national curriculum and the proposed transparency and reporting requirements within the provisions of the bill. As was revealed at the public hearing, however, representatives of non-government school organisations understood that these concerns would be

2 Explanatory Memorandum, *Schools Assistance Bill 2008*, pp 1–4.

3 Hon. Julia Gillard MP, Minister for Education, Employment and Workplace Relations, *Speech to the ISCA Parliamentary Forum*, media release, 1 September 2008, p. 2.
<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p?query=Id%3A%22media%2Fpressrel%2FFEFR6%22> accessed 20 November 2008

4 *Ibid.*, p. 3.

addressed in discussions with the government after the bills were passed, and that they were in no position to influence the government's immediate legislative intentions.

Provisions of the bill

1.10 The purpose of the bill is to provide funding to non-government schools in a manner that ensures transparency and accountability of the sector is consistent with public schools. As part of the government's commitment to improving educational standards across the country, new reporting requirements will be placed on the non-government school sector. For this to occur, the bill introduces six performance and transparency requirements which are set out in clauses 17 to 22. Subparagraph 19(2)(b)(ii) allows the Minister to report publicly on non-government schools' performance and financial arrangements. Clause 22 provides for the compulsory implementation of a national curriculum as a condition of funding.

1.11 Clause 24 provides that a funding agreement must require reports of financial information to the Minister. Reports relating to the following are required:

- (a) programs of financial assistance provided under this Act, so far as they relate to the relevant authority;
- (b) the financial operations (including the financial viability and funding sources) of:
 - (i) in any case – the school or other body; and
 - (ii) in the case of an approved school system – the schools (including each particular school) in the system.

1.12 The Government's commitment to retain the current system of general recurrent funding for non-government schools is reflected in clauses 38 to 56 of the bill. Non-government schools will continue to be funded through the Socioeconomic Status (SES) funding model introduced in 2001. This model allows for the allocation of funding to be based on the socioeconomic profile of the school community, whereby the higher a school's SES score the lower the per student funding rate. Routine revision of SES scores will occur over the next four years, but provisions of the bill ensure that no school will receive less funding due to the re-assessment of its SES score.⁵

1.13 The bill allows for the funding of current targeted programs under clauses 86 to 99. These programs include short term emergency assistance; education in country areas; teaching English to new arrivals; and literacy, numeracy and special learning needs.⁶

5 Explanatory Memorandum, *Schools Assistance Bill 2008*

6 Marilyn Harrington, 'Schools Assistance Bill 2008', *Bills Digest*, no. 37, p. 11.

Issues

1.14 The committee notes a number of concerns with the bill raised in both submissions and in evidence taken at the committee's public hearing. Although the majority of submissions supported the passage of the bill, most were apprehensive about a number of the provisions that were conditional to funding.

Implementation of a national curriculum

1.15 In December 2007, all governments agreed through COAG to develop and apply a national curriculum. Successive governments have been interested in pursuing this goal, and renewed enthusiasm for the idea straddled the change of government in November 2007. The national curriculum has bipartisan support. The implementation of a national curriculum by 31 January 2012 as a condition of funding is provided for in Clause 22 of the bill. In developing a single curriculum from kindergarten to Year 12, the government aims to create uniform achievement standards and broadly common curriculum content across the entire school sector.⁷

1.16 The committee notes concerns regarding the proposed national curriculum in submissions made to the inquiry. The most prevalent concern expressed in submissions is the perceived lack of flexibility in the delivery of learning. The Australian Association of Christian Schools (AACS) argued that it is the very nature of the non-government school curricula that sets it apart from public schools:

There are numerous philosophical, theological and pragmatic implications attached to curricula and AACS would be most concerned if anything flowing from the National Curricula were to compromise its schools' capacity to maintain their distinctive approaches, content, interpretation and pedagogies.⁸

1.17 At the hearing it became apparent that some members of the AACS are concerned lest they be barred under curriculum guidelines from teaching the doctrine of 'creationism'. They took away with them the committee's view that it was highly unlikely there would be any presumption of what should not be taught. The Minister's assurances in this regard were made known at the hearing by officers from the Department of Education, Employment and Workplace Relations.

1.18 Concerns were also raised about the future of alternative curricula programs such as the International Baccalaureate in the proposed national curriculum. The Independent Schools Council of Australia also argued the importance of non-government schools retaining flexibility in their curriculum. In their submission, the Council expresses concern over the future of these alternative programs:

7 Department of Education, Employment and Workplace Relations, *Submission 25*, p. 6.

8 Australian Association of Christian Schools, *Submission 2*, p. 3.

The capacity to delivery the curriculum according to a school's philosophy and pedagogical approach is essential for the continued operation of these schools. It is not clear that this will be possible under this legislation.⁹

1.19 A number of submissions expressed hesitation over the acceptance of a curriculum that is yet to be written, but the committee believes such concerns are unfounded. The national curriculum proposes uniform standards for each of the key learning areas– English, mathematics, the sciences and history. However, outside these core requirements, there will be flexibility allowing schools to implement curriculum content at school level. It is inconceivable that there will be no provisions for discretion and choice in subject content. Rather than restrict school curriculum, the government sees the proposed curriculum as setting key educational standards for all schools, and addressing concerns that have arisen in many quarters about standards and about pedagogy which is most effective in raising standards, particularly in regard to literacy and numeracy.

1.20 In their submission, the Department of Education, Employment and Workplace Relations argued that the introduction of a national curriculum will ensure all students have access to the essentials of learning regardless of school they attend.¹⁰ In response to claims of inflexibility, Minister Gillard explained:

The national curriculum will not be a straightjacket for schools. It will provide for flexibility and scope to allow schools and teachers to implement its content and achievement standards in appropriate ways at the local and school level. It should not interfere with the ability if independent schools to continue to offer local curriculum arrangements within the requirements of the curriculum essentials of the national curriculum.¹¹

1.21 The committee expects the government will take into consideration these concerns over curriculum flexibility when finalising the implementation of the national curriculum. Furthermore, the committee notes that representatives of non-government schools will participate in curriculum writing and consultative bodies established to advise on national curriculum matters.

Funding transparency and audit reports

1.22 In bridging the gap between public and non-government schools, the government has promised to apply the same financial transparency requirements across the education sector. In doing so, the government hopes to gain a better understanding of the financial requirements of schools, and the current state of the education system. However, the issue of funding transparency of non-government

9 Independent Schools Council of Australia, *Submission 31*, p. 13.

10 DEEWR, *Submission 25*, p. 6.

11 Hon. Julia Gillard MP, Minister for Education, Employment and Workplace Relations, *House of Representatives Hansard*, 21 October 2008, p. 48.

schools has proved to be contentious, with a large number of submissions focussing on this issue.

1.23 Some submissions are opposed to Section 15(c) of the bill which allows the Minister to refuse or delay payment to a non-government school if a qualified audit is conducted. Concern with audit process derive from the possibility that the audit may be qualified for reasons other than financial viability, such as a difference in accounting standards as argued by the Association of Heads of Independent Schools of Australia (AISV) in evidence given to the committee.¹² Likewise, in their submission The Geelong College argued:

A qualified audit opinion may be given in an annual audit of a school where the auditor disagrees with the treatment or disclosure of information in the financial statements...A qualified audit may therefore arise from an issue completely removed from the school's ability to viably operate. It may even arise for non-financial reasons.¹³

1.24 The committee believes that fears about qualified audit reports are without foundation. As explained by the Minister, an auditor may express concern regarding a school's finances or viability without qualifying their opinion. This section of the bill is described as a 'probity provision' and relates purely to the 'appropriate and proper use of government funds'.¹⁴ The committee is confident that the audit process will not be used in a way which harms non-government schools which are in all respects compliant with the law.

1.25 A number of submissions suggested that the more stringent financial reporting requirements are unnecessary. They argue that non-government schools are already subject to Commonwealth accountability mechanisms such as the financial questionnaire. In their submission to the inquiry, the AISV also questioned the need for government to obtain this information:

Investment in education by parents and the community from private after-tax income is not a matter for government. Big brother supervision of parental decision on investing personal resources in their children's education is extreme micromanagement. The requirements on schools to report to parents and disclose their financial activities are more than sufficient for parents to determine the value of schooling.¹⁵

1.26 Similarly, they felt that the current reporting requirements were sufficient:

It is AHISA's view that current reporting arrangements for independent schools' financial data more than adequately meet public accountability and

12 Ms Michelle Green, Chief Executive, AISV, *Committee Hansard*, 19 November 2008, p. 37.

13 The Geelong College, *Submission 16*, p. 2.

14 Hon. Julia Gillard MP, Minister for Education, Employment and Workplace Relations, *House of Representatives Hansard*, 21 October 2008, p. 9760.

15 Association of Independent Schools of Victoria, *Submission 35*, p. 2.

transparency requirements and AHISA recommends this be taken into account in the framing of the regulations pertaining to the legislation.¹⁶

1.27 In evidence given to the committee during the public hearing, it was claimed that publishing the source of funding of schools may discourage private donations. The appropriateness of public reporting was also questioned on the grounds that for some independent schools Commonwealth funding constituted only a small proportion of income. The Association of Independent Schools of Victoria (AISV) told the committee:

In a local community people will give to a school, but they will not give to every school and they may well be concerned that, if they provide money to one school and that is publicly disclosed, they will then be under attack from other schools, including government schools. We believe that will have a direct impact on people's willingness to give in a corporate sense. There are other more specific examples that others might want to address.¹⁷

1.28 Furthermore, the AISV also voiced their concern regarding the possible misuse of school financial data by the media. Dr Heather Schnagl, Vice-Chairman of the organisation claimed:

We are concerned about the potential, in publishing all sources of moneys, for it to be distorted in the public press. I can just see the headlines on the front page of the media if they are published out there: 'So-and-so school has this amount of money to spend on each individual student.'¹⁸

1.29 Conversely, some submissions supported the stringent financial scrutiny of non-government schools. In their submission, the New South Wales Teachers Federation pointed to the transparency of the government school sector, and argued that non-government schools need to become just as transparent:

The public education system is subject to the most intense scrutiny, through reports to Parliament and other bodies, to parents and through the media. In NSW they are obliged to report publicly on their financial affairs. Public schools have found themselves in the position of having their bank balances published in the tabloid press, the information provided to them by official channels. No such scrutiny is applied to private schools which act with the benefit of 'commercial-in-confidence' clauses. There can only ever be a perception of any semblance of "fairness" in funding when there is full knowledge of the circumstances of the private schools sector...¹⁹

1.30 The committee considers that the grounds for opposition to increased financial transparency of non-government schools are insubstantial. Increased transparency of

16 Association of Heads of Independent Schools of Australia, *Submission 24*, p. 4.

17 Ms Michelle Green, Chief Executive, AISV, *Committee Hansard*, 19 November 2008, pp 34–35.

18 Dr Heather Schnagl, Vice-Chairman, AISV, *Committee Hansard*, 19 November 2008, p. 33.

19 New South Wales Teachers Federation, *Submission 15*, p. 2.

the financial resources of non-government schools is essential to gaining a better understanding of the current state of the country's education system. The funding transparency provisions in the bill will allow the government to target financial assistance effectively and will make financial reporting requirements consistent across both government and non-government schools. It will make possible more accurate indications of cost-benefit trends. The fear that private donors will be discouraged out of fear of identification is without grounds. DEEWR officials advised the committee that:

It does identify it in an aggregated level [the sources of income]. But in terms of what would be reported publicly, that is still to be developed in consultation with the non-government sector and also through the expert working group...But it is not the intention to go to that level of disaggregation. Private donors would not be revealed in that sort of way. It would be aggregated up.²⁰

National Education Agreement and performance reporting

1.31 In *Federal Labor's Commitment to Lift School Standards*, the government made an election commitment to improve transparency in schools through the introduction of national testing and public reporting on performance of schools. This commitment has materialised as a central element of the schools assistance bill. The National Education Agreement currently being finalised through COAG provides for performance and accountability requirements to be applied to government schools. The Schools Assistance Bill aims to make requirements on non-government schools consistent with this agreement. The National Education Agreement plays a central role in the government's education reform agenda. Aligning requirements of non-government schools with those of government schools will ensure consistency and transparency in performance reporting across all schools.

1.32 A number of submissions made to the inquiry expressed apprehension at the proposed publication of school performance reports. While recognising the collection of this data may assist the government in targeting needs-based funding, concern has arisen regarding the potential misuse of such data. In their submission, the Australian Association of Christian Schools explained:

...we have significant concerns about the potential uses and abuses of this data once it is in the public arena. Of particular concern are the schools that are most exposed to social dysfunction and socio economic disadvantage...AACS believes that this data, once collected, should be scaffolded with carefully designed confidentiality protocols that protect schools from a predatory media.²¹

20 Ms Deb Rollings, Branch Manager Schools Policy, Grants and Reporting Branch, DEEWR, *Committee Hansard*, 19 November 2008, p. 60.

21 Australian Association of Christian Schools, *Submission 2*, p. 3.

1.33 Raising the issue of the possible misuses of school data, Hillcrest Christian College asked:

Furthermore, how will this information be used? Too frequently we see information gathered by the Government end up in the media only to be distorted and misrepresented. How will the rights of our community be respected and protected in such an information gathering exercise?²²

1.34 There are fears that the release of such information will unfairly rank non-government schools. The National Catholic Education Commission (NCEC) argues in their submission that data collected may be used to 'denigrate certain schools or teaching programs'.²³ Moreover, such reporting requirements are expected by some to 'add to the already significant regulatory burden'²⁴ faced by schools.

1.35 In response to concerns raised over the publication of school performance reports, the Minister rebutted claims that the release of such data would create disadvantage amongst schools. Instead, she explained the use of such reports would enable the government to allocate resources more fairly and effectively and provide parents with more information about schooling options for their children.²⁵ Furthermore, the Minister explained that schools would be compared with other like schools so as to avoid unfair comparisons.²⁶ The Minister also responded to suggestions that simplistic league tables would be created and stated:

I want to emphasize that these will not lead to the creation of dumb league tables that tell us little but to smart reports that show us how well each school is meeting agreed standards compared to schools with similar enrolments and challenges.²⁷

1.36 The committee recognises that performance reporting needs to be consistent for all schools for the government to achieve its education improvement goals. The committee has some regard for the arguments that 'league tables' can give a misleading impression of overall school performance. They may inflate the reputations of some schools and underrate the effectiveness of others. On the other hand, the arguments of independent schools are inconsistent with the otherwise competitive tendencies of schools in asserting their commitment to excellence. Competition is one of the main rationales for the continuing existence of independent

22 Hillcrest Christian College, *Submission 29*, p. 2.

23 National Catholic Education Commission, *Submission 28*, p. 2.

24 AISV, *Submission 35*, p. 10.

25 Josh Gordon, 'Gillard dismisses school league table anger', *The Age*, 17 August 2008, p. 12.

26 Hon. Julia Gillard MP, Minister for Education, Employment and Workplace Relations, *House of Representatives Hansard*, 21 October 2008, p. 9759.

27 Hon. Julia Gillard MP, Minister for Education, Employment and Workplace Relations, *Speech to the ISCA Parliamentary Forum*, media release, 1 September 2008, p. 5.
<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2FFEFR6%22> accessed 20 November 2008

schools and for the support they receive from the Commonwealth. If parents send their children to independent schools in the expectations of higher achievement than they would receive elsewhere, this should be tested. In practice, published performance on school data is highly unlikely to result in a rush of students from one school and into another on the basis of this performance. Enrolment stability is unlikely to be effected by this measure.

The SES model

1.37 The government will continue the SES funding arrangements for non-government schools under the provisions of the bill. Introduced in 2001, the SES funding model links the residential addresses of students enrolled at the school to Census data to produce a socioeconomic profile of the school community and its ability to support the school. Under the SES model, funding is allocated according to the socioeconomic status of the community the school is located in. Schools which draw students from largely high SES areas receive lower levels of funding than schools which draw from areas of average or low SES.²⁸ SES scores will be reviewed over the next four years.

1.38 The use of the SES funding model, as well as the transparency and reporting requirements outlined in the provisions of the bill, has generated concern regarding its use in the future. The additional reporting requirements placed on schools are seen by some as signalling the abolition of the SES model. Ms Joy Shepherd, Principal of St Hilda's Anglican School in Perth explained:

I think the additional reporting requirements for programs and financial operations suggest there's a move away from the commitment to the current SES as a basis of grants for non-government schools.²⁹

1.39 The belief that the new reporting requirements may undermine the continued use of the SES model was evident in a number of submissions. Geelong College questioned the introduction of these new requirements, fearing they could form an alternative funding system which would replace the SES model of funding.³⁰ The College showed support for the SES funding arrangements in their submission:

The Geelong college has in the past stated its strong support for the SES model of funding...the SES model eliminated many inequities and went further towards producing a 'level playing field' than its predecessor...³¹

1.40 Christian Schools Australia argue the benefits of the SES model, citing its transparency and independence from both schools and government as key reasons for

28 DEEWR, *Submission 25*, p. 12.

29 Bethany Hiatt, '*Grant agenda worries schools*', *West Australian*, 29 October 2008, p. 7.

30 Geelong College, *Submission 16*, p. 3.

31 *Ibid.*,

their support.³² The NCEC argued the use of the SES methodology 'has provided a degree of funding stability for Catholic schools'.³³

1.41 The Lutheran Education Australia submission acknowledged there are issues that need to be addressed with respect to the SES model. However, they are 'confident that the announced funding review for 2010 will allow these issues to be identified and addressed'.³⁴

1.42 The Australian Education Union has consistently opposed the SES model, which it sees as a device of funding for resource rich schools at the expense of those less endowed. Mr Angelo Gavrielatos, President of the Australian Education Union told the committee:

In approaching this inquiry, we want to again restate what is in our submission—namely, our critique of the architecture of the funding arrangements which regrettably the Rudd government has embraced in their entirety and put forward again for another four years. It is regrettable because the architecture of the funding system is flawed and known to be flawed, and it is not only our own critique that shows that.³⁵

1.43 The committee notes that research conducted by the Department has indicated problems with this model, and that it will be further evaluated during the forthcoming quadrennium. In response to opposition of the model, the government has maintained that it will review the SES funding program over the next four years.

Abolition of establishment grants

1.44 Introduced in 2001, establishment grants were introduced to assist newly commencing independent schools. The grants were implemented to allow these new schools to be competitive with existing schools, particularly newly established Catholic systemic schools. At the time, Catholic schools were funded outside the SES model without regard to the socioeconomic status of their school community. As Catholic systemic schools became fully integrated into the SES system of funding and therefore have had their funding determined on the same basis as new independent schools, the government decided establishment grant assistance is no longer needed.³⁶

1.45 The committee notes that while the establishment grants are welcome, new schools are not totally dependent on this assistance. Representing the Independent Schools Council of Australia, Mr Bill Daniels told the committee:

32 Christian Schools Australia, *Submission 36*, p. 4.

33 National Catholic Education Commission, *Submission 28*, p. 2.

34 Lutheran Education Australia, *Submission 39*, p. 2.

35 Mr Angelo Gavrielatos, President, Australian Education Union, *Committee Hansard*, 19 November 2008, p. 17.

36 DEEWR, *Submission 25*, p. 14.

From an ISCA perspective, we do not consider that to be a major issue. It was certainly a useful contribution for new schools that were being established to help them get over the hurdles of the first couple of years, the additional start-up costs of the school...It was certainly a valuable contribution, but I do not think it will prevent the opening of schools that are determined to open.³⁷

1.46 Similarly, Mrs Therese Temby of the NCEC informed the committee at the public hearing:

...most schools when they open have very few enrolments so in fact the establishment grant, because it was per capita based, was quite small. So, therefore, I do not believe it will be a disincentive to the establishment of new Catholic schools.³⁸

1.47 The committee believes that the abolition of the establishment grants will not pose a hurdle to the formation of new non-government schools.

37 Mr Bill Daniels, Executive Director, Independent Schools Council of Australia, *Committee Hansard*, p. 7.

38 Mrs Therese Temby, Chair, National Catholic Education Commission, *Committee Hansard*, p. 14.