



29th October 2008

**Submission to
The Standing Committee on Education, Employment and
Workplace Relations
Re
Schools Assistance Bill 2008 and The Education Legislation
Amendment Bill 2008**

Introduction

Thank you for the opportunity to make a submission to the Committee on this important appropriation bill that also introduces and confirms elements of the Government's reform agenda.

The Australian Association of Christian Schools (AACCS) represents approximately 100 schools and 30,000 students, Australia wide, including urban, regional and remote schools in both low and middle class socio-economic populations.

AACCS schools are committed to quality education within a framework that is unashamedly referenced to a Christian worldview. As such, our schools have warmly embraced both the previous and current Governments' agendas for quality education and strong outcomes. Many of our schools serve populations of disadvantaged and disabled students that require added support and encouragement that, in some cases, may have the effect of reducing outcomes when based on averaging techniques.

The following submissions, though supportive of the passage of the Bill, raise a number of concerns for which we would seek assurances from the Parliament given that this Bill contains some significantly new initiatives around which there will be new regulations that we have not yet been privy to.

Under no circumstances do we want to see the passage of the Bill delayed by the concerns that we raise, as many of our schools would be unable to sustain themselves for any period of time if funding was delayed in 2009, especially in the current economic circumstances where banks are being very cautious in offering or extending credit facilities.

The importance of passing the Appropriation Bill.

Given that the heart of this Bill is an appropriation instrument upon which schools are dependent for survival, even in the short term, it is imperative that this Bill not be delayed beyond the end of the current parliamentary year by political processes.

AACCS has a number of schools that would need to go into overdraft during the January vacation period and they would not collect sufficient fee income at the start of the school year to sustain themselves much beyond a few pay periods.

While we believe that some of our concerns are substantial, we would be happy to accept the assurance of the Minister in respect of these concerns that ample opportunity for consultation and negotiation will be provided before regulations and details are locked in, especially those provisions tied to the funding agreements as conditions of funding.

Confirmation of Non Government School funding under the SES arrangements.

AACS welcomes the legislation in so far as it confirms the Government's earlier commitment to maintaining the funding arrangements for Non Government schools for the quadrennium 2009-2012. We appreciate the stability and certainty that this provides for schools, parents and students and look forward to continued negotiation with the Government in relation to the promised review of these arrangements.

The introduction of the new Commonwealth-States Financial Framework.

AACS acknowledges the introduction in this legislation of reforms to the Commonwealth-State Financial Framework under which the funding of schools will be managed into the future. While we have no in principal objection to the funding framework thus far, we look forward to ongoing discussion and negotiations with the Government in relation to the detailing of its commitment, through the Minister, to the "schooling" agenda.

We acknowledge the damage caused by the historic tension between the public and private education sectors and are committed to being party with the Government to addressing any inequities and perceptions that may surround this divide.

However, AACS is also concerned that the detail that may emerge in the process of unpacking the Minister's interpretation of the concept of "schooling" is an issue that has had little airing and almost no debate. We would therefore wish to qualify our commitment to the new financial framework by seeking assurances from the Minister that robust debate and negotiation will take place before any of the mechanisms are locked down in regulation.

Provisions for Accountability

To be required to commit to funding agreements that anticipate accountability requirements that have not yet been seen, let alone negotiated is, to say the least, an unhelpful and irregular contractual arrangement.

We acknowledge that this has also occurred in the past but regard it as an unhelpful practice.

While the list of accountability requirements contains no surprises per se, there are several items that have a long way to go before agreement is reached regarding the content and implications of accountabilities.

The two items of most concern to AACS in the six conditions covering school performance are as follows:

1. The provision of publicly available information about school performance (*Clause 19, sub paragraph 19(2) (b) (ii)*)
2. The National Curriculum (*Clause 22, paragraph 1*)

However, further to these, AACS is also concerned about the provisions in the legislation that:

1. Require schools to report on sources of funding (*clause 24*)
2. That empower the Minister to delay payments to schools and to request further information where school audits raise questions about a school's viability (*Clause 15, paragraph 15(c)*)
3. That empower the Minister to apply any other conditions or provisions that he or she considers appropriate in the life of this Act. (*paragraph 29 (c)*)

Clause 19, sub paragraph 19(2) (b) (ii)

While AACS has no objection to the collection of schools data that might enable the Government to more appropriately target needs-based funding, 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. In the wrong hands, some data would make what is already a difficult job almost impossible for teachers in those schools that work hard to raise morale and set standards in the midst of frequent crises.

As indicated above, AACS is committed to working with the Government in closing down the public-private divide in schooling. However, there will always be those who are philosophically opposed to non-government schools for whom access to this kind of data would just perpetuate the divide.

AACS believes that this data, once collected, should be scaffolded with carefully designed confidentiality protocols that protect schools from a predatory media. AACS also believes that the Government must do all in its power to avoid the public release of data that would deliver league tables and the worst aspects of competitive mindsets that the Government is so committed to eliminating.

The National Curriculum

While AACS is broadly supportive of the concept of National Curricula that would deliver consistency in some content, skills and assessment standards, the very thing that distinguishes independent schools from each other and from the schools in the public sector are worldviews, philosophies of education and pedagogies that are embedded in the curricula that they design. 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.

AACS has been satisfied with the consultation processes initiated by the National Curriculum Board thus far and believes that there is both goodwill and capacity for the above concerns to be negotiated during the remainder of the development process. To have the Government's assurance that they would protect our interests in signing off the funding agreements arising from this legislation would seem to be an appropriate request, given the contractual nature of the agreements.

We appreciate the clarification offered by the Minister in her speech to the House, on 21st October 2008, especially the commitment to providing schools with the flexibility and scope to implement the schools content. This, however, does not address the importance to some faith-based Non Government schools of the right to interpret curricula in the context of their overarching worldview, theology and philosophy of education. The specificity of compulsory curriculum content and any assumed interpretations and or pedagogies remain issues that we would want to progress with the National Curriculum Board and/or the Minister.

Clause 24

At one point in the lead up to the last election, the present Government indicated that they would not introduce into funding agreements disincentives to schools in relation to the raising of private income.

The disclosure in detail of sources of income could, under certain circumstances, be very intrusive and potentially compromise a school's ability to attract some private funding.

Given that the details associated with this provision in the Bill are not available as yet, AACCS is concerned that its schools have to enter into an agreement without knowing the full implications of this provision.

The issue is not so much a desire on the part of our schools to hide the types of income to which they have access, but again, of how the data may be used either by Government or, if published, the media and/or those opposed to Non Government schooling. Once again, AACCS seeks an assurance from the Government that opportunities to negotiate the confidentiality protocols attached to the collection of such data will be guaranteed before this provision is enshrined in regulations and procedures.

The clarification of some matters relating to our concerns about this provision in the Bill made by the Minister in her third reading speech to the House on the 21st October 2008, is appreciated. In particular, we note the mechanism by which the data will be collected and the parity between Government and Non Government schools on the issue of transparency. However, her comments do not adequately address the potential for public disclosure of specific donations, sponsorships and the like. These will still need to be addressed in ongoing discussions with the Government.

Clause 15, paragraph 15(c)

As already indicated above, numerous schools operate on very small margins and frequently need to take advantage of overdraft facilities from their banks to manage the cash flow patterns of each year. With such small margins, it is not uncommon for these same schools to have unexpected crises that may have the appearance of threatening their viability in the short term.

For example, a school may have to deal with a crisis or dismiss a popular member of staff that has an immediate impact on enrolments and both private and government income. When faced with such circumstances, schools need to downsize and or restructure to position themselves to become viable again. In the meantime, their figures may appear to be troublesome and unsustainable. This could be then reflected in the auditor's comments which, under the provisions of the Bill, would create the conditions that might give the Minister cause to delay the payment of Commonwealth funding installments. In doing so, this would almost certainly intensify the crisis facing the school.

While AACS acknowledges the motivation and even the justification for the Government to address issues of viability, an ill-considered regulation associated with this Bill could exacerbate the crises facing a school and push it over the edge when, under more careful regulations, a more constructive and supportive process e.g. the use of Short Term Emergency Assistance might see the school back on an even footing.

Again, AACS seeks an assurance from the Government that opportunities to negotiate the conditions that might give rise to a call on this provision of the Bill will be guaranteed before it is expressed in regulations and procedures.

The Minister's clarifying comments in the House on the 21st October 2008, do little to address the concerns that AACS has in relation to this provision in the Bill and we would want to progress the issue in discussion with the Minister in the near future. However, this should not be a cause to delay the passage of the Bill.

Clause 29, paragraph 29 (c)

Once again, the open ended nature of a clause like this in a contract seems unnecessarily and unhelpfully one-sided. While there is a need to recognize that circumstances might arise whereby the Minister might need to take action to protect the Commonwealth's interests, it is hard to envisage a situation in which this could not or would not be preceded by an appropriate consultation and negotiation process.

The New Provisions for the Funding of Indigenous Students

AACS can see the sense in reducing the bureaucratic complexity of the funding of Indigenous Education in the complex range of circumstances in which such education is delivered. We can also see the wisdom of the separate Bill and the enabling legislation that would make a single payment, the ISA, available to all schools that meet the eligibility requirements.

Clearly the transitional arrangements between the existing and the new funding provisions have been protected by the guarantee over the next four years which ensures that no school or system will receive less funding than they have received in 2008.

The eligibility criteria for schools to access the ISA may place some schools in a position that makes them ineligible to receive funding that they may have been entitled to in the past. Though this will only affect a small number of schools, it is a matter that needs to be carefully assessed as implementation approaches.

Until such times as schools and systems have had a chance to evaluate the implications of the move to the ISA, it is very difficult to determine whether there will be problems for schools beyond the first quadrennium. AACS therefore reserves its judgment on the wisdom of these provisions of the Bill.

The removal of the New Non Government Schools Establishment Grant.

The unexpected removal of this funding provision from the Act is, to say the least, a disappointment and, in the opinion of AACS, a serious backwards step.

Already, Non Government schools must carry a much greater burden than Government schools in the establishment of a new facility. Legal, structural, capital and marketing costs are at their peak at such a time and enrolments are often at an awkward stage, thereby creating temporary financial pressures.

The Minister has indicated a strong commitment to “schooling” as an expression of her desire to see the funding of Government and Non Government schools on a more even footing. It is difficult to see how the removal of the Establishment Grant contributes to a more even playing field.

AACS would propose that the Government revisit the removal of this Grant and ensure that Non Government schools, who must carry the lion’s share of the start-up capital for a new school, are not further disadvantaged in comparison to the establishment of new Government schools.

The Funding of Students with Disabilities

It remains a great disappointment that there is no provision in this Bill to address the major concern facing Non Government schools regarding the funding for students with disabilities.

One of the great challenges facing Non Government schools at the moment is the growing demand for the provision of educational opportunities for students with disabilities but at funding levels that are ridiculously lower than those provided for students in the Government sector.

With the Minister’s strong commitment to removing the divide between the public and private sectors, AACS had been hoping that the Government may have addressed this issue in the Bill.

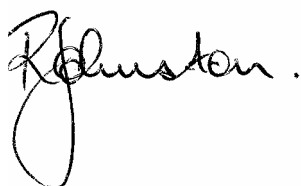
While this is not a reason to delay the passage of this Bill, it remains an urgent and major concern for Non Government schools, and increasingly so under the current economic pressures.

Concluding Remarks.

AACS does not seek a meeting with the Standing Committee in relation to this submission. A copy of the submission is being provided to the Independent Schools Council of Australia and they will be appearing before the Committee on our behalf. Should the Committee wish to seek clarification on any specific comments made in this submission, I can be contacted on (02) 4751 9815 or mobile 0413 368 723 or by email at rjohnston@acs.net.au.

Again, can I emphasise the importance that we place on the passage of this Bill being finalised before the end of the last Parliamentary sitting for 2008. We will seek an urgent meeting with both the Minister and the Shadow Minister in relation to the concerns raised in our submission and will deal with those concerns in the context of the development of regulations and procedures arising from the Bill.

Yours sincerely



Robert Johnston
Executive Officer