



Independent Schools  
Council of Australia

LT009

13 February, 2013

Manager  
Philanthropy and Exemptions Unit  
Indirect, Philanthropy and Resource Tax Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Sent by email to: [NFPReform@treasury.gov.au](mailto:NFPReform@treasury.gov.au)

**Re: Australian Charities and Not-for-profits Commission – Financial Reporting  
Requirements - Draft Regulations**

ISCA welcomes the opportunity to make a submission to The Treasury on the Draft Regulations for Financial Reporting under to the ACNC framework.

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 (AISs). Through these Associations, ISCA represents a sector with 1,090 schools and 550,000 students, accounting for approximately 16 per cent of Australian school enrolments. ISCA's major role is to bring the unique needs of independent schools to the attention of the Australian Government and to represent the sector on national issues.

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.

Many independent schools have been established by community groups seeking to meet particular needs. Examples include the independent community schools for indigenous students in remote areas, special schools for students with disabilities and boarding schools to educate children from rural and remote areas. There are also schools that seek to reflect the religious values of a particular community or that seek to practice an internationally recognised educational philosophy such as Rudolf Steiner or Montessori schools. Independent Catholic schools are a significant part of the sector, accounting for 10 per cent of the independent sector's enrolments.

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 18 per cent of schools in the independent sector.

### **About the Independent School Sector**

Independent schools are not-for-profit institutions that are set up and governed independently on an individual school basis. Independent schools are registered with the relevant state or territory education authority. Boards of governors or committees of management are the key decision-making bodies for most independent schools and are responsible for issues such as a school's educational provision, current and future development and staffing. Unlike other sectors, the majority of independent schools operate autonomously. These schools do not rely on central bureaucracies or bodies and are separately accountable to their parent and school communities.

The steady growth of the independent sector is evidence of the public confidence in the accountability of independent schools through the mix of contribution to education policies, legislative compliance and self-regulation. Independent school enrolments continue to increase because many parents and community groups find that self-governing schools are more accountable to their immediate communities than is possible for schools that are part of large centralised systems.

Individual schools operate in an environment of choice and diversity. The forces that operate in this environment impose an imperative for schools to be aware, innovative and responsive to change in order to ensure schools continue to meet the needs of students and expectations of parents and provide a high quality educational experience for their students.

As noted earlier, independent schools are already highly accountable to their school communities. Independent schools have a greater range of accountabilities than any other type of school in Australia due to the complex mix of their responsibilities to stakeholders, governments, authorities and their legal obligations as incorporated bodies.

In addition to their not-for-profit status, all independent schools are also charitable institutions and as such fall under the auspices of the new Australian Charities and Not-for-profits Commission.

Full details of the regulatory environment for independent schools are provided at Appendix A.

### **School Enrolments and Trends**

The independent school sector is the third largest school education provider in Australia and at secondary level is the second largest provider of schooling services.

Enrolments in independent schools have grown steadily since the 1970s. According to Australian Bureau of Statistics (ABS) data, in 2011 independent schools accounted for 14 per cent of total student enrolments compared to 4 per cent in 1970. Full time enrolments have increased from around 114,000 in 1970 to over 500,000 in 2011. (Note: ABS data excludes independent Catholic enrolments).

### **Draft Regulations for Financial Reporting**

In response to the Draft Regulations, ISCA has the following comments to make concerning the proposed Financial Reporting requirements.

ISCA notes that the ACNC has set up a Non-government School Sector Reporting Duplication Working Party with DEEWR to work through the issues associated with the removal of unnecessary duplications in reporting requirements for schools. ISCA and National Catholic Education Commission are both represented on the Working Party which will meet formally for the first time at the end of February.

ISCA also notes that Section 3A of the *Consequential and Transitional Bill 2012* indicates that the Commissioner must treat a report (or reports) given under the *Schools Assistance Act 2008* that cover the financial operations of the school as being the reports mentioned in S60-10 of the ACNC Act in accordance with Subdivision 60-C. This applies to the 2012-2013 financial year through to and including the 2014-2015 financial year and includes any later year prescribed by the regulations.

ISCA would advocate that for as long as the ACARA/Commonwealth information portal *My School* reports comparable information on school finances that the regulations should continue to exclude schools from further reporting of any type to the ACNC. Given that the information collected by DEEWR and forwarded to ACARA for disclosure on *My Schools* exceeds reporting disclosure on the ACNC site, we would advocate that independent schools be categorised in the Act in a similar fashion to Basic Religious Charities and be given exemption status for lodging any reporting to the ACNC.

DEEWR, as the Commonwealth body that receives information prescribed under the Schools Assistance Act 2008 receives financial information from schools both in the prescribed DEEWR format (the Financial Questionnaire) as well as in the prescribed Accounting Standards format, including receiving the auditor's report. Regardless of school size (tier 1-tier 3) schools are required to prepare and submit audited financial records. We would advocate that the legislation require that schools only need prepare special purpose financial reports, based on the "test" that no users exist who cannot directly obtain the information they require. Financial information (as well as a large selection of non-financial information) is publicly available on *My School* as well as in the annual report that every school is required to publish under the Schools Assistance Act.

The Draft Regulations specify that reports must be for the standard financial year (1 July to 30 June). Independent schools have operated for some time on a calendar year accounting basis in lieu of their financial year ending 30 June. This is because under the *Schools Assistance Act 2008* (the Act), both sections 23 and 24 require non-government schools to acquit grants and report on financial operations in respect of the previous program year. The Act defines program year as the 2009, 2010, 2011, 2012 or 2013 calendar year. The Australian Government legislation enabling school funding has specified financial reporting according to calendar years for several decades.

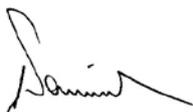
The funding agreement between the Australian Government and individual independent schools, also specifies that under section 24 of the Act, independent schools are required to provide to the Minister by 30 April each year following the relevant program year, a Financial Questionnaire drawn from independently audited accounts. Section 23 of the Act requires grant acquittal by 30 June in the year following the program year.

ISCA notes that under the ACNC Act, the Commissioner has the power to make a determination to approve a substituted accounting period. However, in light of the above Australian Government legislation setting reporting periods for non-government schools, we are unsure if a determination is actually required. ISCA is currently seeking clarification from the ACNC in regard to action that may be required by independent schools to report on a substituted accounting period.

The establishment of the ACNC and the associated changed compliance requirements for schools will require some considerable adjustment by school management to understand over the coming months. Schools need to be able to make long-term plans and provisions to ensure their ongoing compliance, quality and viability. Schools operate in a dynamic environment which is influenced not only by changing societal expectations, demographics and economic circumstances, but also by changing government policy. The Australian Government's education reform agenda has had a significant impact on the operations of individual independent schools, including through funding agreements with the Government. Any additional levels of uncertainty or confusion can have a significant impact on the operating environments for independent schools.

ISCA looks forward to further consultation on these initiatives.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bill Daniels', with a stylized flourish at the end.

Bill Daniels  
**Executive Director**

## REGULATORY ENVIRONMENT FOR INDEPENDENT SCHOOLS

Independent schools have a greater range of accountabilities than any other type of school in Australia due to the complex mix of their responsibilities to stakeholders, governments, authorities and their legal obligations as incorporated bodies.

Independent schools must meet the criteria established by their state or territory government for registration as a school and for their accreditation for credentialing of students. School registration is reviewed on an ongoing basis, which ensures that the school's curriculum and governance complies with state or territory government requirements. State and territory governments provide some funding support for independent schools, and schools must comply with any related conditions of funding as well as reporting and accountability requirements.

The Australian Government is the source of most of the public funding for independent schools. Comprehensive conditions and accountability requirements apply to this funding which are specified in the *Schools Assistance Act 2008*, Schools Assistance Regulations, Administrative Guidelines: Australian Programs for Non-government Schools 2009 to 2012 and the Funding Agreement between the Australian Government and the approved school authority.

Schools are obliged to work co-operatively with their state or territory government to support that government in fulfilling its obligations under the National Education Agreement. Independent schools must also agree to support the achievement of the Melbourne Declaration on Educational Goals for Young Australians and the Council of Australian Governments (COAG) outcomes for schooling. Governments have acknowledged through the Melbourne Declaration on Educational Goals for Young Australians that "Together, all Australian governments commit to working with all school sectors and the broader community to achieve the educational goals for young Australians." One of the action areas for achieving this end articulated in the Declaration is developing stronger partnerships.

Schools must participate in all specified National Student Assessments, participate in the preparation of the National Report on Schooling in Australia, collect and provide extensive information relating to individual students and school information to all organisations specified in the Regulations, including the Australian Government Department of Education, Employment and Workplace Relations (DEEWR) and the Australian Curriculum, Assessment and Reporting Authority (ACARA). Schools are also required to report to parents in compliance with legislated requirements, annually report and publish specified information relating to aspects of the school and its operations and implement the national curriculum.

Independent schools must submit to a Financial Questionnaire to DEEWR annually. The Financial Questionnaire is an annual collection of financial income, expenditure and liabilities from all non-government schools receiving Australian Government general recurrent grants. The Financial Questionnaire data draws on a school's audited financial statements. Schools are also subject to scrutiny of their financial operations including the financial viability and funding sources of the school. Independent schools must demonstrate that the funds received under each Australian Government funding program have been expended appropriately. This includes providing the Australian Government with certificates certified by qualified accountants regarding the expenditure of Australian Government grants. All accounts records and documents as well as free access to each campus of a school must be available to the Auditor-General or DEEWR officers.

Independent schools are bound by a number of other legal requirements associated with their operations. For example, as companies limited by guarantee or as incorporated associations, independent schools are accountable to the Australian Securities and Investments Commission, or to their state or territory registrar of associations. They must submit audited financial statements to these bodies which are available for public scrutiny. They are also subject to regulation by the Australian Taxation Office.

In addition to their not-for-profit status, all independent schools are also charitable institutions and as such fall under the auspices of the new Australian Charities and Not-for-profits Commission.

As employers, independent schools must comply with legislation and regulations covering such issues as occupational health and safety and industrial awards. As educational institutions they must comply with health and safety, privacy and child protection requirements, town planning requirements, human rights and equal opportunities legislation, as well as regulations relating to building and fire codes.

For most independent schools, decision-making takes place at school level through the school board or council and the role of the principal. This imposes far greater accountability to stakeholders at the school level than is the practice in systemic schools. The school board plays a key role in all forms of accountability. The board requires accountability for all the activities of the school, and is itself accountable to the school's immediate stakeholders, to the community at large, and to governments aiding or regulating the operation of the school.

The autonomy of independent schools enables them to respond flexibly to the needs of their local communities and individual students. Individual schools operate in an environment of choice and diversity. The incentives that operate in this environment impose an imperative for schools to be aware, innovative and responsive to change in order to ensure schools continue to meet the needs of students and expectations of parents.

It should be noted that the same conditions and requirements apply to all independent schools irrespective of their level of government funding, and that government funding represents only a portion of the income of independent schools.