



Independent Schools
Council of Australia

LT035

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Charitable Fundraising Regulation Reform Discussion Paper
Infrastructure, Competition and Consumer Division
Treasury
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Parkes ACT 2600

Sent by email to: nfpreform@treasury.gov.au

Submission on Charitable Fundraising Regulation Reform: Discussion Paper and Draft Regulation Impact Statement

The Independent Schools Council of Australia (ISCA) welcomes the opportunity to respond to the Discussion Paper released in February by Treasury on the proposed reform to fundraising regulation for charities. ISCA is the peak national body covering the independent schools sector which also comprises the eight state and territory Associations of Independent Schools. Through these Associations, ISCA represents a sector with 1,090 schools and around 550,000 students, accounting for nearly 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.

All of these 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. As a school, they have current reporting responsibilities to both the Commonwealth and State/Territory Governments on a range of schooling issues. Their legal structures can be diverse with many falling into the following categories:



- Schools that are fully owned by a church (e.g. some Uniting Church Schools);
- Schools established by state Acts of Parliament with the specific purpose of establishing the school as a charitable institution (e.g. some Grammar Schools);
- Schools which are an administrative unit operating within an Association or “system” owned by a church;
- Schools which are a company. Many of these are limited by guarantee and assets can be owned by an underlying church property trust. In some cases the company owns the school outright;
- Public benevolent institutions (e.g. Yipirinya Indigenous School).

Some schools with common aims, religious affiliations and/or educational philosophies also belong to a system within the sector. This means that some operational functions are carried out by the system on behalf of all schools within the system. However, all schools have formal boards of governors or committees of management who are the key decision-making bodies for most independent schools and are responsible for issues such as the school’s educational provision, current and future development and staffing.

Many independent schools are faith-based schools with varying degrees of legal and administrative links to their church bodies encompassing the full spectrum of faiths across the Australian community including not only the well-known Anglican, Uniting Church and Catholic schools, but also Lutheran, Baptist, Seventh Day Adventist, Islamic, Greek Orthodox, Christian and Jewish schools. Table 1 below provides a breakdown of the affiliations of independent schools.

Table 1: Affiliations of independent schools, 2010

Affiliation	Schools	Student FTE	%
Anglican	156	137,812	25.2%
Non-Denominational	188	72,100	13.2%
Christian Schools	136	53,757	9.8%
Catholic	64	50,702	9.3%
Uniting Church in Australia	43	49,289	9.0%
Lutheran	85	36,549	6.7%
Inter-Denominational	29	20,725	3.8%
Islamic	32	20,198	3.7%
Baptist	42	17,803	3.3%
Seventh Day Adventist	47	11,043	2.0%
Presbyterian	14	9,844	1.8%
Jewish	20	9,004	1.6%
Steiner School	42	7,515	1.4%
Pentecostal	16	6,838	1.3%
Assemblies of God	10	5,596	1.0%
Greek Orthodox	8	3,894	0.7%
Montessori School	39	3,955	0.7%
Brethren	8	4,025	0.7%
Other Catholic	8	3,469	0.6%

Other Orthodox	6	2,129	0.4%
Other Religious Affiliation *	11	5,033	0.9%
Other**	83	14,607	2.7%

ISCA, on behalf of the independent school sector, has the following general comments to make regarding the questions raised in the discussion paper:

- a) ISCA in responding to the proposed Charitable Fundraising Regulation Reform expresses significant concern that this could be yet another layer of reporting that independent schools are required to undertake, potentially replicating the current school information which is already on the “My School” website. To change reporting structures for schools would be a costly and time consuming exercise. Schools do not rely on public donations for their existence and many currently have very sophisticated accounting structures in place.
- b) Many independent schools may engage in activities that generate relatively small amounts of revenue such as uniform shops, canteens, consultancy services to other schools, or the utilisation of school facilities, but this revenue is incidental to the overall operations of the school and all revenue is reinvested in activities which promote the schools’ dominant purpose, to wit, the advancement of education. Except in relation to school building funds, only moderate revenue is actually raised by schools from accepting donations, however this does vary from school to school. As explicitly outlined in the extract from the Administrative Guidelines above, any surpluses generated by the school must be used for the purposes of the school as a condition of Commonwealth Government funding.
- c) Notwithstanding that many schools may not reach the proposed annual \$50,000 “fundraising” threshold, it is ISCA’s proposal that schools should be exempt from fundraising legislation. It is conceivable that some Government schools may also reach the threshold in relation to their fundraising activities, however they are not registered charities and it is uncertain if they would also be covered by the proposed regulation.
- d) Paragraph 18 of the discussion paper suggests that there may be a number of activities that are unlikely to raise significant concerns in regard to fundraising. These exemptions are supported by ISCA and it would appear that independent schools would also meet the criteria set out in this paragraph. Schools have significant and closely connected communities and should also be recognised (like the religious organisations that many are connected with) as qualifying for the exemption “on the basis that the recipients of such funds are usually personally known to at least a significant proportion of the donors”.
- e) The typical independent school receives the vast majority of its income from a combination of government grants (Commonwealth and State) and from student fees. Income received from donations and charitable giving (fundraising) is very small in comparison. Due to the nature of the income stream, the independent schooling sector has imposed on it highly rigorous and prescriptive reporting requirements to government (in particular DEEWR and State DET’s) and

* Other Religious includes Churches of Christ, Ananda Marga, Hare Krishna and Society of Friends

** Other includes special schools, international schools, indigenous schools, and community schools.

In order to be eligible for Commonwealth Government funding assistance, non-government schools must be not-for-profit. This is made clear in the

Schools Assistance Act 2008 Administrative Guidelines: Commonwealth Programs for Non-government Schools 2009-12 which state under the Commonwealth’s requirements for eligibility for Commonwealth funding: “The memorandum and articles or other instruments by which incorporation is effected must:

a) include the power of the incorporated body to conduct a school; and

b) provide for the non-profit status of the body including a requirement that any surpluses generated by the school, or recognised group of non-government schools be used for the purposes of the school or recognised group of non-government schools and not be transferred to any other activity that the body is authorised to undertake.”

ISCA would foresee that this reporting requirement would not change even with the implementation of the ACNC.

- f) Education has been defined in case law as one of the heads of charity and as independent schools are by their very nature a charitable institution and creating a separate category for school fundraising would support this status. Transparency is already achieved for the school sector through the My School website.
- g) ISCA is concerned that legislation designed to target practices of, in particular “third party fundraisers”, will trap related school entities such as the school P&F in some larger schools. Some independent schools have in excess of 3,000 students, making the \$50,000 threshold would only mean fundraising just over \$16 per student. The discussion paper states in paragraph 21 that small scale fundraising is likely to present less risk to the community in terms of loss or fraud. In the school environment, the P&F association is run by parent volunteers to benefit the students of the school, with funds raised used to purchase resources, capital items or to support the operations of the school. The fundraising activities typically are conducted within the “community” of the school, encompassing “community” including school families (and their relatives), suppliers, local community members and groups etc. The concern is that, given the threshold of \$50,000 for a “group of closely related organisations”, this small scale “community” fundraising which is low risk, could pass this threshold and will be subject to reporting provisions designed to target more invasive fundraising techniques and levels.
- h) ISCA would seek clarification of the paragraph 22 statement of “group of closely related organisations” given that many independent schools would have not only a P&F, but possibly a tuckshop, some student fundraising activities, a uniform/stationery shop, sporting groups and maybe class/year level fundraising as part of a curriculum activity. As well, there is no clarification as to whether the stated threshold of \$50,000 is a “net of expenses” figure, the gross amount raised or maybe what is left after the allocation of the fundraising to another registered “charity”.
- i) ISCA is concerned the proposed changes do not indicate how an entity “opts out” of the requirements of the fundraising laws, nor what happens if they discover that they have exceeded the threshold of \$50,000 in a particular year. ISCA is of the opinion that the \$50,000 threshold is too low (if schools are not exempt from the regulation) and has concerns around what reporting and other requirements will be required when, for one year, an active school P&F (or similar body) in a large school may undertake numerous targeted fundraising activities (each a low risk activity) using many different volunteers from its community, which in aggregate raise more than \$50,000 toward a particularly large project and then return to a “normal” fundraising level below the \$50,000 in subsequent years.
- j) ISCA would strongly advocate that where the funds are distributed or used to fund purchases or operations of a “charitable body”, the funds are not calculated as part of the \$50,000 threshold, given that funds received by the “related” charity would be reported in the financial records of the “parent” charity.

Schools need to be able to make long-term plans and provisions to ensure their ongoing quality and viability. They operate in a dynamic environment which is influenced not only by changing societal expectations, demographics and world financial markets, but also by changing government policy. The Australian Government’s education reform agenda has a significant impact on the operations of individual independent schools, including through non-government schools’ funding agreements with the Government. Any additional levels of uncertainty can have a significant impact on the operating environments for independent schools and could affect educational outcomes.

It is important to re-state that all organisations relying heavily on Government funding (such as non-government schools) already have in place extensive compliance and reporting requirements through their funding departments. It is not necessary in the foreseeable future to include these organisations in any additional reporting or governance structures proposed by changes to charitable fundraising regulations.

ISCA looks forward to further consultation on these initiatives.

Yours sincerely

Bill Daniels
Executive Director