

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 324

Issued by the Authority of the Minister for Employment and Workplace Relations

Subject - *Schools Assistance Act 2008*

Schools Assistance Amendment Regulations 2009 (No. 2)

Background

The *Schools Assistance Act 2008* (the Act) provides for Commonwealth financial assistance to the States and Territories for non-government schools for 2009 to 2012.

The *Schools Assistance Regulations 2009* (the Principal Regulations) specify the performance and transparency requirements in accordance with relevant sections of the Act to give effect to the data collection and reporting requirements in the National Education Agreement (NEA) agreed by the Council of Australian Governments (COAG), including the national assessments and performance measures set out in the *MCEETYA Measurement Framework for National Key Performance Measures*.

The Principal Regulations prescribe requirements for national student assessments (in Part 2), performance information for national reports on the outcomes of schooling (in Part 3), student reports to parents (in Part 5) and information relating to schools to be published by schools (in Part 6).

Authority

Section 174 of the Act provides that the Governor-General may make regulations prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. Sections 17, 18, 19, 20, 21 and 22 of the Act refer to requirements that may be prescribed in regulations in relation to national school performance and transparency requirements for non-government schools for program years 2009 to 2012.

The *Schools Assistance Amendment Regulations 2009* (the Regulations) prescribe matters in accordance with section 19 of the Act, and also make amendments to existing regulations prescribed for the purposes of sections 17 and 18.

Purpose and operation

The Australian Government's intent is to apply to non-government schools the same data collection and reporting requirements applicable to government schools under paragraphs 31–32 of the NEA in relation to individual school information. The vehicle by which this is achieved is the Regulations which specify the individual school information to be provided by non-government schools to the Minister, or another person or body determined by the Minister, under section 19 of the Act. These requirements will comprise Part 4 of the regulations. Once the Minister has made the relevant determination, non-government schools will be required to provide this information to the Australian Curriculum, Assessment and Reporting Authority

(ACARA), which will use it to provide information to the community about each school.

The Regulations also prescribe the Progress in International Reading Literacy Study (PIRLS) assessment as a national student assessment for the purposes of section 17, and replace references to the former Ministerial Council on Employment, Education, Training and Youth Affairs (MCEETYA) with references to its replacement, the Ministerial Council for Education, Early Childhood Development and Youth Affairs (MCEECDYA).

Lastly, the Regulations amend existing notes in Regulation 5, which deals with reporting to parents, and Regulation 6, which deals with publication by schools of information relating to schools, to clarify that schools and school authorities may have obligations under the *Privacy Act 1988* in relation to information which they report respectively under Regulations 5 and 6.

Consultation

The individual school information requirements are the result of decisions by Education Ministers in April 2009 based on advice provided to them by the School Reporting Working Group, an advisory group which includes representatives from the National Catholic Education Commission (NCEC) and the Independent Schools Council of Australia (ISCA).

In July 2009, the Department of Education, Employment and Workplace Relations (DEEWR) wrote to each non-government school and school system explaining the requirements for individual school information as agreed by Education Ministers at the April 2009 MCEETYA meeting. On 8 October 2009, an exposure draft of the Regulations was provided to all non-government school stakeholders for their information, followed by face-to-face consultations with NCEC and ISCA on 13 October 2009 to discuss the Regulations.

Commencement

The Regulations commenced on the day after they were registered on the Federal Register of Legislative Instruments.

Background to the substantive provisions

The agreements covering Commonwealth financial assistance for both government and non-government schools from 2009 onwards incorporate a new set of reporting requirements which focus on ensuring good reporting to government, parents and the community. The performance information and reporting requirements on non-government schools contained in the Act reflect those required of government schools under the NEA, which forms part of the COAG-agreed Intergovernmental Agreement on Federal Financial Relations which took effect from 2009.

Regulations under the Act apply only to non-government schools. They give effect to data collection and reporting requirements in the NEA between the States and Territories and the Commonwealth; that is, they extend to non-government schools the performance reporting and transparency obligations on government schools

already agreed between governments, as contained in the NEA and as agreed by COAG and MCEETYA.

Individual school information

The collection of nationally comparable information on all schools, government and non-government, is intended to support accountability, school evaluation, collaborative policy development and resource allocation. From the data collected, specific information on individual schools, agreed by Education Ministers, will be made available to the community through a new website. Provision of individual school information to ACARA is one of the obligations on State and Territory government school systems under the NEA. There, the parties have committed to “national reporting on the performance of individual schools, with details to be agreed by MCEETYA.” MCEETYA approved the information items to be reported at its April 2009 meeting. The Regulations are intended to place the same obligation on non-government schools.

ACARA is expected to commence publication of information on all schools on a website in January 2010.

Other amendments

The Regulations also amend the current Regulation specifying national student assessments under section 17 of the Act to add the Progress in International Reading Literacy Study (PIRLS) assessment.

Section 17 requires non-government schools and school systems to ensure that the national student assessments specified in the regulations are carried out. Regulation 2.1 prescribes these assessments for the period 2009-2012. The assessments currently comprise the annual full-cohort National Assessment Program – Literacy and Numeracy (NAPLAN) assessments in reading, writing, language conventions and numeracy for the period 2009-2012, and a suite of sample assessments: the National Assessment Program assessments in science (2009 and 2012), civics and citizenship (2010) and Information and Communications Technology (ICT) literacy (2011); the Programme for International Student Assessment (PISA) assessments in reading, mathematical and scientific literacy (2009 and 2012); and the Trends in International Mathematics and Science Study (TIMSS) science and mathematics assessments (2010).

PIRLS is a five-yearly international sample assessment which collects data on trends in the reading literacy achievement of fourth-grade (in Australia, Year 4) students. It is managed by the International Association for the Evaluation of Educational Achievement (IEA) based at Boston College in the United States. The current cycle is the third in the series, building on PIRLS 2001 and PIRLS 2006; however this will be the first time Australia has participated.

Australia’s participation in PIRLS has been agreed formally by all State and Territory Education Ministers. The amendment to Regulation 2.1 has the effect of extending the requirement to participate in PIRLS in 2010 to non-government schools.

While the current assessment is known internationally as PIRLS 2011, testing in southern hemisphere countries including Australia will take place in late 2010. The PIRLS assessment will be carried out in conjunction with the next cycle of TIMSS, also managed internationally by the IEA. The 2010 assessment will be the only PIRLS assessment taking place during the course of the 2009-2012 non-government school funding quadrennium.

Provision of data

Much of the information specified in the Regulations is able to be provided by sources other than schools themselves.

For example, non-government schools provide data on school location, year levels, student enrolments (including Indigenous), and staff via the annual non-government schools census, managed by DEEWR, which feeds into the Australian Bureau of Statistics National School Statistics Collection. Student residential addresses are already provided to DEEWR to enable calculation of each school's funding entitlement as determined by its SES score, and student attendance rates are already collected from non-government schools each year by DEEWR on behalf of MCEECDYA for national reporting purposes.

Student NAPLAN results can be provided by the State testing authorities which carry out the annual NAPLAN assessments, while Vocational Education and Training participation and attainment, Year 12 outcomes and tertiary entrance results can be provided by the relevant State authorities.

Where possible, information on individual schools will be sourced from existing collections. School information obtainable through sources other than schools is included in the Regulations to enable information collected from schools for purposes other than individual school information to be used for individual school information.

Publication of data

While the Regulations specify the individual items of data to be provided for the purposes of individual school information, it is important to note that not all of the data collected is for publication in the form provided. Individual student data, which will be provided to ACARA in de-identified form, will be used only to present information at the school level.

For example, the de-identified individual student results from NAPLAN assessments (Subregulation 4.4(2)) will be used to present NAPLAN outcomes for the school for each subject area at each of year level. The de-identified residential address of each student (Paragraph 4.2(1)(i)) will be used to calculate and present a socio-economic profile of the school's student population in table form.

Timing

Not all items will be collected or reported immediately. Publication of information on school income will not occur until later in 2010, once details are settled, and reporting on teacher expertise, student language background and disability, Year 12 attainment and tertiary entrance scores will also commence at a later date once the data collection and reporting issues are agreed.

Details of the Regulations

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Schools Assistance Amendment Regulations 2009 (No.2)*.

Regulation 2 – Commencement

This regulation provides that the Regulations commenced on the day after they were registered on the Federal Register of Legislative Instruments.

Regulation 3 – Amendment of *Schools Assistance Regulations 2009*

This regulation provides that the *Schools Assistance Regulations 2009* are amended as set out in Schedule 1.

Schedule 1 Amendments

Item [1] – Regulation 1.4, definition of *MCEETYA*

Item 1 updates the definition of MCEETYA (the Ministerial Council on Employment, Education, Training and Youth Affairs) in Regulation 1.4 by substituting MCEECDYA (the Ministerial Council for Education, Early Childhood Development and Youth Affairs) and defining MCEETYA as the *former* Ministerial Council. A Note explains that MCEECDYA was established on 1 July 2009 and takes over areas of responsibility from MCEETYA.

Item [2] – Regulation 1.4, after definition of *NAPLAN*

Item 2 adds the definition of PIRLS in Regulation 1.4. PIRLS is defined to mean the Progress in International Reading Literacy Study. A Note explains that PIRLS is an international assessment of Year 4 students in reading literacy, conducted every five years by the International Association for the Evaluation of Educational Achievement.

Item [3] – Regulation 2.1, Table 2, after item 12

Item 3 amends Subregulation 2.1 by inserting in Table 2, as Item 13, the PIRLS assessment in the 'Assessment' column and 2010 in the 'Year(s)' column.

Items [4], [5] and [6] – Subregulations 2.1(1), 3.2(2) and 3.3(4), Notes

Items 4 to 6 amend the explanatory notes under Subregulations 2.1(1), 3.2(2) and 3.3(4) by replacing the Internet web address of the former MCEETYA with that of MCEECDYA.

Item [7] – After Part 3

Item 7 inserts, after Part 3, new Part 4 Funding agreements – individual school information, containing Regulations 4.1 to 4.4.

Part 4 Funding agreements – individual school information

Regulation 4.1 – Specified individual school information

Regulation 4.1 specifies that for the purposes of subsection 19(1) of the Act the information in Part 4 for an individual school is specified. Subsection 19(1) requires all relevant authorities for non-government schools, and all school systems, to ensure that each school gives the Minister, or another person or body determined by the Minister, a report (or reports) about individual school information specified by the regulations.

Under Part 4, three types of individual school information are specified, which are *contextual, capacity and outcomes information*.

Regulation 4.2 – Contextual information

Subregulation 4.2(1) specifies the contextual information to be provided for each school. This comprises a school information statement and information on the school's sector and address, school grades offered, enrolments disaggregated by sex and school grade, full time equivalent enrolments, numbers of students of Indigenous status, language background other English and with a disability, and the residential address of each student enrolled at the school.

The last item will comprise de-identified data (that is each student's home address without the student's name) needed to establish the SES profile of the school.

Subregulation 4.2(2) provides that a school information statement as required under paragraph (1)(a) is a short statement about the school which may include information about the school's mission, values, focus, achievements, specialist programs, student welfare programs, curriculum strengths and extra curricular activities, contextual information about the school's affiliations and philosophy, and the website address of the school or system authority.

Regulation 4.3 – Capacity information

This regulation specifies the capacity information to be provided for each school.

Subregulation 4.3(1) specifies information on school income broken down by income type.

Subregulation 4.3(2) specifies information about teaching and non-teaching staff at the school – the number and full-time equivalent of teaching and non-teaching staff respectively and the number of teaching staff by level of expertise.

Regulation 4.4 – Outcomes information

This regulation specifies the outcomes information to be provided for each school.

Subregulation 4.4(1) specifies information on the rate of student attendance at the school disaggregated by school grade, sex and Indigenous status.

A Note explains that performance information for student attendance is prescribed for section 18 of the Act in Part 3 of the Regulations. Section 18 of the Act requires that schools and school systems provide reports on performance information for national reports on the outcomes of schooling, as prescribed by the regulations. The relevant Regulations are 3.1, which sets out the performance information

requirements including measures for student attendance, and 3.3, which specifies the form in which student attendance is to be provided (that is by school sector, school grade, sex of students and Indigenous status).

Subregulation 4.4(2) specifies information on NAPLAN outcomes. NAPLAN is the National Assessment Program – Literacy and Numeracy, the annual full-cohort student assessment at Years 3, 5, 7 and 9. Subregulation 4.4(4) defines NAPLAN outcomes. This means de-identified individual student results from the NAPLAN assessments from 2008 onwards in reading, writing, language conventions and numeracy at each of Years 3, 5, 7 and 9 and the numbers of students exempted, absent and withdrawn from each assessment.

Subregulation 4.4(3) specifies information on secondary school outcomes for each student enrolled at the school. This comprises numbers of students participating and attaining qualifications in vocational education and training, attaining Year 12 or equivalent qualifications, attaining other qualifications at the end of their schooling, the tertiary entrance results of students and the post-school destinations of students.

Subregulation 4.4(3A) specifies information about the satisfaction of students, parents and teachers with the school.

Subregulation 4.4(4) defines the term, NAPLAN outcomes, for the purposes of subregulation 4.4(2).

A Note under this subregulation explains that NAPLAN assessments are prescribed for section 17 of the Act in Part 2 of the Regulations. Section 17 of the Act requires that schools and school systems ensure that each national student assessment specified in the regulations as applying to the school is carried out. The relevant regulation is Regulation 2.1.

Items [8] and [9] – Subregulations 5.1(3) and 6.1(4) Notes

Items 8 and 9 amend the Note on privacy obligations in subregulations 5.1(3) 6.1(4) respectively. Regulation 5 specifies requirements for student reports to parents to be provided by schools under section 20 of the Act; and Regulation 6 specifies the information relating to schools (“school annual reports”) which must be made publicly available by schools under section 21 of the Act. The amendments to the notes are intended to make it clear that schools or school system authorities themselves may have obligations under the *Privacy Act 1988* in providing this information.