



Australian Curriculum, Assessment and Reporting Authority Bill 2008

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Social Policy Section

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Australian Curriculum, Assessment and Reporting Authority Bill

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Portfolio: Education, Employment and Workplace Relations

Commencement: Royal Assent

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The purpose of the Australian Curriculum, Assessment and Reporting Authority Bill 2008 (the Bill) is to establish the Australian Curriculum, Assessment and Reporting Authority (ACARA).

ACARA, which will be an independent statutory authority, will manage the creation and implementation of the national curriculum, national student assessment and reporting of school education outcomes. Specific functions, as provided in Clause 6 of the Bill, will include:

- developing and administering a national school curriculum, including content of the curriculum and achievement standards, for school subjects as specified in its Charter
- developing and administering national assessments
- collecting, managing and analysing student assessment data and other data relating to schools and comparative school performance
- facilitating information sharing arrangements between Australian and state and territory governments bodies in relation to the collection, management and analysis of school data
- publishing information relating to school education, including comparative school performance
- providing school curriculum resource services, educational research services and other related services and
- providing information, resources, support and guidance to the teaching profession.

The structure and operations of ACARA will be overseen by the Australian and state and territory governments through the Ministerial Council on Education, Employment,

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Training and Youth Affairs (MCEETYA), which will frame ACARA's Charter and approve Board appointments.

ACARA's Board membership will comprise a Chair, Deputy Chair, one member nominated by the Minister, one representative each from the Catholic education and independent schools sectors, and a representative for each state and territory.

The Bill's explanatory memorandum states that the proposed governance model for ACARA accords with the MCEETYA agreement reached on 12 September 2008.¹

Background

Basis of policy commitment

ACARA's establishment was agreed to by the Council of Australian Governments (COAG) at its October 2008 meeting.² The decision is the result of current COAG negotiations regarding the new National Education Agreement and National Partnerships which will set the framework for the government's 'education revolution' in school education.³ The Government is committed to establishing the final governance arrangements for ACARA's Board by 1 January 2009.⁴

Consequently, ACARA will supersede the National Curriculum Board and the National Schools Assessment and Data Centre which the government established earlier this year. The National Curriculum Board was an ALP election policy commitment.⁵ The 2008–09

1. Explanatory Memorandum, Australian Curriculum, Assessment and Reporting Authority Bill 2008, p. 2, http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Fr3100_ems_a9947ca2-ebcd-4e76-87a5-0ba0254a9027%22, accessed on 8 November 2008.
2. 'Communique', Council of Australian Governments' Meeting, 2 October 2008, p. 7, http://www.coag.gov.au/coag_meeting_outcomes/2008-10-02/docs/communique20081002.pdf, accessed on 6 November 2008.
3. For further information about the COAG reform process, see Richard Webb, 'COAG Reform Fund Bill 2008', *Bills Digest*, no. 54, Parliamentary Library, Canberra, 2008–09, <http://www.aph.gov.au/library/pubs/bd/2008-09/09bd054.pdf>, accessed on 11 November 2008.
4. Julia Gillard, 'Second reading speech: Australian Curriculum, Assessment and Reporting Authority Bill 2008', House of Representatives, *Debates*, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F2008-10-23%2F0016%22>, accessed on 5 November 2008.
5. K. Rudd and S. Smith, *New Directions for Our Schools: Establishing a National Curriculum to Improve Our Children's Educational Outcomes*, Australian Labor Party, [Canberra], 2007,

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Budget provided \$20 million over four years to establish the National Curriculum Board, which was to develop a national curriculum from kindergarten to Year 12 in the areas of English, mathematics, the sciences and history.⁶ The National Curriculum Board has already begun its work—Professor Barry McGraw is its Chair; national forums have been held; a broad directions paper produced; and initial advice papers for English, mathematics, the sciences and history released for discussion.⁷

The 2008–09 Budget also provided \$17.2 million over four years to establish a National Schools Assessment and Data Centre. The Centre, which was scheduled to commence operation from 1 January 2009, was to collect data and report on key performance measures for schools, as agreed to by COAG, to ‘ensure transparent and timely national assessment and reporting of literacy and numeracy outcomes for Australian school students.’⁸ The proposed Centre arose from the Government’s commitment to greater transparency and its determination to target resources to where they are needed most, based on better sources of information:

Our approach is to recognize and respect the diversity of schooling in Australia and to put forward the proposition that high quality education should be available to all children, wherever they live, whatever background they come from and whatever sector their school is in.

... we believe this new approach requires a new era of transparency and accountability.

For parents to fully understand the choices they can make for their children, we need a more transparent and consistent basis for them to examine the options.

To target resources in a way that will best improve our education system, we need richer sources of information. We need to know where efforts are bearing fruit and where they are not so we can take effective action.

<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fparty%2FVSP06%22>, accessed on 7 November 2008.

6. Australian Government, Budget Paper No. 2: Budget Measures 2008–09, Commonwealth of Australia, Canberra, 2008, p. 139, <http://www.budget.gov.au/2008-09/content/bp2/html/expense-09a.htm>, accessed on 7 November 2008.
7. For further information, see the National Curriculum Board’s web site at <http://www.ncb.org.au/default.asp>, accessed on 7 November 2008.
8. Australian Government, Budget Paper No. 2: Budget Measures 2008–09, op. cit., p. 141.

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For schools, teachers and education authorities to learn which strategies work in which circumstances, we need comprehensive information about both the performance and the circumstances.⁹

The debate

The establishment of ACARA is the culmination of a long period of policy debate—in the case of the national curriculum the debate dates back to the 1980s when John Dawkins, then Minister for Employment, Education and Training, called for a common curriculum framework that would set out ‘the major areas of knowledge and the most appropriate mix of skills and experience for students in all the years of schooling’.¹⁰

The debate about, and policy focus on, a national curriculum, student assessment and school reporting was invigorated from 2005 when the previous Government mandated, as conditions for its funding, the development and implementation of Statements of Learning in certain subject areas, which had previously been agreed to by MCEETYA; and student assessment and school reporting requirements.¹¹ The Schools Assistance Bill 2008, which provides Australian Government funding for non-government schools and which is currently before the Parliament, contains similar conditions of funding. These conditions will also be a feature of the forthcoming National Education Agreements for Australian Government funding for government school systems. What is significant in the new arrangements is the additional requirement for reports about individual school performance, as determined by the Minister.¹²

A national curriculum

Under the previous government, the national curriculum debate was spurred on by a series of government-commissioned reports that highlighted curriculum inconsistencies and

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9. J. Gillard (Minister for Education), *Speech [to] the ICSEA [Independent Schools Council of Australia] Forum*, media release, 1 September 2008, <http://mediacentre.dewr.gov.au/mediacentre/gillard/releases/theiscaparliamentaryforum.htm>, accessed on 7 November 2007.
 10. J. S. Dawkins, *Strengthening Australia’s Schools: A Consideration of the Focus and Content of Schooling*, Minister for Employment, Education and Training, Canberra, 1988, <http://dpl/Books/2008/StrengtheningAustSchools.pdf>, accessed on 7 November 2008
 11. See *Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act 2004*, paragraphs 14(1)(f) and 14(1)(g) and subsections 31(f) and 31(g), <http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/current/bytitle/B42223A296758099CA257314001D59DD?OpenDocument&mostrecent=1>, accessed on 6 November 2008.
 12. For further information, see Marilyn Harrington, ‘Schools Assistance Bill 2008’, *Bills Digest*, no. 37, Parliamentary Library, Canberra, 2008–09, <http://www.aph.gov.au/library/pubs/bd/2008-09/09bd037.pdf>, accessed on 17 November 2008.

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proposed a national Australian Certificate of Education for Year 12 students.¹³ The debate about the teaching of Australian history in schools was particularly vigorous, driven by an Australian History Summit, convened by the previous government; the release of a *Guide to Teaching Australian History in Years 9 and 10*; and the then Prime Minister's commitment to mandate the teaching of 'at least 150 hours of Australian history' in high school.¹⁴

The commitment to a national curriculum is now entrenched and will be required to be implemented from 2011.¹⁵ In the lead-up to the 2007 federal election both major parties made policy commitments in relation to the development of a national curriculum. In its last budget, the previous government provided \$13 million over two years to work with the states and territories to develop curriculum standards in English, maths, science and

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13. See, K. Donnelly and others, *Benchmarking Australian Primary School Curricula*, Department of Education, Science and Training (DEST), Canberra, 2005, http://dpl/Books/2005/DEST_BenchmarkingCurricula.pdf; G. Matters and G. Masters, *Year 12 Curriculum Content and Achievement Standards*, DEST, [Canberra], 2007, http://pandora.nla.gov.au/pan/67832/20070212-0000/www.dest.gov.au/NR/rdonlyres/BEBED234-E6F9-43C0-AF0F-0975DCFEE39B/15412/curriculum_content_achievement_standards1.pdf; and Australian Council for Educational Research, *Australian Certificate of Education: Exploring a Way Forward*, DEST, [Canberra], 2006, http://dpl/Books/2006/DEST_AustralianCertificateEducation.pdf, accessed on 7 November 2008.
 14. J. Howard (Prime Minister), *The teaching of Australian history in schools*, media release, 11 October 2007, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2FJEKO6%22>, accessed on 7 November 2008. See also, the Department of Education, Employment and Workplace Relations' web site, *Teaching Australian History*, http://www.dest.gov.au/sectors/school_education/policy_initiatives_reviews/key_issues/Australian_History/, accessed on 7 November 2008.
 15. J. Gillard (Minister for Education), *Speech [to the] 2008 Curriculum Corporation Conference*, media release, 10 November 2008, p. 3, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2FO12S6%22>, accessed on 12 November 2008.

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Australian history for Years 10 to 12.¹⁶ The then Education Minister also made an election commitment to appoint a panel of experts to write curriculum guides.¹⁷

However, debate remains about the pedagogical implications of a national curriculum. The release of the National Curriculum Board's initial advice papers for English, mathematics, science and history unleashed considerable debate, with regard to both their content and those responsible for preparing the documents.¹⁸

In response to the previous government's proposal for a national curriculum, Associate Professor Tony Taylor from Monash University, suggested that a national curriculum could not be justified by international experience or research, citing Britain and France, both of which have national curriculums but which have, on the one hand, failing schools and, on the other, a poor economy.¹⁹

However, according to the Minister for Education, a single national curriculum:

will ensure that every young Australian has access to the highest quality education—regardless of where they live or their socioeconomic background.

... It will also facilitate greater student mobility ... for some 80,000 school aged students who move interstate each year ...

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16. J. Bishop (Minister for Education, Science and Training), *Greater national consistency in curricula*, media release, 8 May 2007, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2FFPF0N6%22>, accessed on 6 November 2008.
17. J. Ferrari, 'Bishop eyes maths, science', *Australian*, 16 November 2007, p. 1, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2F7SXO6%22>, accessed on 6 November 2008.
18. See, for example, K. Donnelly, 'Now left march children, please keep to one size', *Canberra Times*, 8 November 2008, p. 7, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2FEI1S6%22>; F. Tomazin, 'Building lessons', *Age*, 3 November 2008, p. 9, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2FCUZR6%22>; J. Ferrari, 'A slow, steady learning curve', *Australian*, 25 October 2008, p. 28, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2FTEXR6%22>; 'Rudd must not allow curriculum hijacking', *Australian*, 10 September 2008, p. 15, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2FY8IR6%22>, accessed on 14 November 2008.
19. D. Ryan, 'Who should set the course', *Age*, 19 November 2007, p. 3, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2F6NYO6%22>, accessed on 7 November 2008.

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... [it] will benefit teachers by giving them a clear understanding of what needs to be covered in each subject and in each year level during each phase of schooling.

... [it] will also bring benefits to parents. It will give them clear and explicit agreement about what it is that young people should know and be able to do.²⁰

There is some apprehension about a national curriculum from elements of the independent schools sector. The concerns focus on how prescriptive the national curriculum will be and, consequently, the implications for schools offering alternative curriculums, such as the Montessori and Steiner systems and the International Baccalaureate; and for certain faith-based schools.²¹ The Chief Executive of Christian Schools Australia has given voice to the concerns of faith-based schools, calling for assurance that the national curriculum would allow them to teach 'legitimate faith perspectives'.²² The Opposition, in moving a motion in response to the Schools Assistance Bill 2008, which is providing funding for non-government schools, is of the view that the Government has a 'hidden agenda' by:

... requiring adherence to a national curriculum without flexibility that puts at risk the uniqueness of Steiner, Montessori, International Baccalaureate, University of Cambridge International Examinations and special needs schools ...²³

However, the national curriculum and how it is to be implemented, is a long way from being finalised. Nevertheless, there is consensus that it should not be too prescriptive and that there needs to be flexibility to cater for local needs.²⁴ The states and territories, in their proposal for a national curriculum, explained:

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20. Julia Gillard, 'Second reading speech: Australian Curriculum, Assessment and Reporting Authority Bill 2008', op. cit.
 21. J. Kennard, 'Minister faces political lesson from education Bill', *Canberra Times*, 6 November 2008, p. 23, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2FDT0S6%22>, accessed on 7 November 2008.
 22. A. Tillett, 'Schools fear test of faith in national curriculum', *West Australian*, 6 November 2008, p. 7, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2F8R0S6%22>, accessed on 7 November 2008.
 23. Christopher Pyne, 'Second reading speech: Schools Assistance Bill 2008', House of Representatives, *Debates*, 21 October 2008, p. 49, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F2008-10-21%2F0064%22>, accessed on 7 November 2008.
 24. P. Kelly, 'Labor plan is modest progress on education', *Australian*, 26 September 2008, p. 16, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2FSEEO6%22>, accessed on 7 November 2008.

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... a national curriculum will benefit if there is flexibility for states and schools to innovate and adapt and to share their experiences of what approaches achieve the best results. A level of autonomy for individual schools and teachers to make professional decisions about curriculum drives the high performance level of a large number of government, Catholic and Independent schools across jurisdictions.

... whatever common curriculum standards (that is, what students are expected to achieve in mathematics, science etc.) are adopted by jurisdictions, it is important to allow for flexibility in schools catering for different groups of students to achieve these standards in different ways. This is not an argument for lower standards for some students. On the contrary, it is an argument for flexibility in teaching approach and, in some cases, content in order to reach the standards in different settings.²⁵

The Minister has moved to address these concerns, assuring schools that the national curriculum will 'allow teachers the flexibility to shape their classes around the curriculum in a way that is meaningful and engaging for students.'²⁶ She has also recognised particular concerns:

The national curriculum, once agreed and completed, will be compulsory. But it will not mean that every school will be required to teach the same subjects, line by line, in the same way.

... I recognise that some schools use a specialised curriculum such as the International Baccalaureate and that some, such as Steiner and Montessori schools, have educational philosophies which involve a particular approach to curriculum.

Clearly there are a number of approaches that are internationally and educationally recognised and used by schools that can show their approach to curriculum is well structured and high quality. I will ask the National Curriculum Board to advise in due course on the most effective method for confirming this recognition of well-established alternative curriculum frameworks.²⁷

There are indications that the national curriculum is gaining broader acceptance; most recently, with the NSW government now reversing its previous opposition.²⁸ However, the

25. Council for the Australian Federation, *Federalist Paper 2: The Future Of Schooling In Australia*, rev. ed., Department of Premier and Cabinet, Melbourne, 2007, pp. 13–14, http://dpl/Books/2007/FederalistPaper2_SchoolingInAustraliaRevEd.pdf, accessed on 7 November 2008.

26. Julia Gillard, 'Second reading speech: Australian Curriculum, Assessment and Reporting Authority Bill 2008', op. cit.

27. J. Gillard (Minister for Education), *Speech [to the] 2008 Curriculum Corporation Conference*, op. cit., pp. 6–7.

28. J. Ferrari, 'NSW says fed plan has class', *Australian*, 14 November 2008, p. 6, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2F2D3S6%22>, accessed on 14 November 2008.

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future of the national curriculum remains uncertain with Family First Senator Steve Fielding saying, in relation to the Schools Assistance Bill, that he is still undecided about how he will vote in the wake of calls he has had from schools concerned about signing up to an undecided national curriculum:

The Rudd Government is saying ‘trust us, we will give you the detail’ but most Australians would like to see the details first because education is such a cornerstone ...The last thing schools want to feel is a gun to their head dictating what they can teach kids.²⁹

Student assessment and school reporting

National student assessment is now entrenched and has routinely occurred since 1999 when the first annual literacy tests (reading and writing) for Year 3 and Year 5 students were conducted and the results assessed against national benchmarks. Since then the testing regime has been progressively extended. As from 2008, as part of the National Assessment Program—Literacy and Numeracy (NAPLAN), Year 3, 5, 7 and 9 students now sit the same national tests in reading, writing, spelling, grammar and punctuation and numeracy.³⁰ National Assessment Program assessments are also occurring. These involve triennial sample assessments in science at Year 6, civics and citizenship at Years 6 and 10 and ICT literacy at Years 6 and 10. Australia is also participating in the OECD Programme for International Student Assessment (PISA) in reading, mathematical and scientific literacy for 15-year-olds and the Trends in International Mathematics and Science Study (TIMSS) at Years 4 and 8.³¹

As part of the Australian Government’s current conditions for school funding, established by the previous government, schools are required to provide parents with their child’s national literacy and numeracy test results against the national benchmarks. They are also required to provide reports to all parents on their child’s performance relative to their peer group at the their school. Schools performance information is also to be made publicly available by both government and non-government education authorities.

Aggregated school performance information by state and territory and school sector is currently provided through MCEETYA. However, now the Rudd Government’s proposal

29. A. Tillett, ‘Education ultimatum hits a snag’, *West Australian*, 11 November 2008, p. 12, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2FRZ2S6%22>, accessed on 14 November 2008.

30. For further information, see the NAPLAN web site, http://www.naplan.edu.au/home_page.html, and the 2008 NAPLAN summary report, http://www.naplan.edu.au/verve/resources/NAPLAN_Summary_Report.pdf, accessed on 8 November 2008.

31. For further information, see MCEETYA’s *National Assessment Program (NAP)* web site, http://www.mceetya.edu.au/mceetya/nap-national_assessment_program.16358.html, accessed on 14 November 2008.

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is to solicit comparable individual school performance information to better target resources where they are most needed. As the Minister explains in her second reading speech:

... to lift performance and direct new resources to where they will make most difference, we need unprecedented rigour and openness in the collection and publication of schools data.

... we need a basis for fair, consistent, and accurate analysis of how different schools are doing.

Accurate information on how students and schools are performing tells teachers, principals, parents and governments what needs to be done.

This means publishing the performance of individual schools, along with information that puts that data in its proper context. That context includes information about the range of student backgrounds served by a school and its performance when compared against other 'like schools' serving similar student populations.³²

The Minister's regard for New York City's school reporting system as a basis for the proposed school reporting framework and for its Chancellor, Joel Klein, has received much attention. According to the Minister:

We can learn from Klein's methodology of comparing like schools with like-schools and then measuring the differences in school results in order to spread best practice.³³

However, Minister Gillard has stopped short of endorsing league tables, which rank and compare individual schools' performance, and 'A to F reporting' which is a feature of the New York system.³⁴

The New York City system uses annual school progress reports which compare students' performance from year to year and compare schools within a group of 40 peer schools with similar populations. Schools are then graded from A to D and F based on student test results, the progress of students in a year and the school environment as determined by attendance and a survey of parents, students and teachers. Schools rated as A or B receive financial rewards and are used to demonstrate good teaching practices. Schools graded D

32. Julia Gillard, 'Second reading speech: Australian Curriculum, Assessment and Reporting Authority Bill 2008', op. cit.

33. J. Ferrari and N. Bitá, 'New York state of mind on school ranks', *Australian*, 12 August 2008, p. 11, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2FMM8R6%22>, accessed on 8 November 2008.

34. *ibid.*

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or F are given assistance to improve and if no progress is made the school is restructured, the principal changed or it is closed.³⁵

According to the latest results for 2007–08, nearly 60 per cent of schools either improved their grade or maintained an A-level from the previous year, 50 schools received a D grade compared to 86 for the previous year, and the number of F-rated schools dropped from 35 to 18 schools. Accompanying these results were the results of a pilot school-based merit pay scheme, whereby teachers at 89 of the 160 participating schools will receive bonuses as the result of improved student test scores.³⁶

However, the New York City system has been assessed by some as unreliable and producing misleading comparisons of school performance and student progress. In his analysis of the system, Trevor Cobbold, Convener of Save our Schools, concludes: ‘It is incoherent, can be used to produce league table[s], fails to compare like with like and is statistically flawed.’³⁷

Australian Education Union (AEU) President, Angelo Gavrielatos, has questioned Australia ‘importing “flawed” approaches from the US, a nation that has been consistently outperformed by countries such as Finland which does not publicly rank schools.’ He has also asked how the Minister will stop the production of ‘simplistic league tables’.³⁸

Concerns have also been raised about the impact of school reporting on struggling schools. Professor Peter Mortimore, a former director of the London-based Institute of Education, anticipates, based on the experience in England, that struggling schools will suffer from an exodus of students and standards will drop:

The trouble is that this transparency has been tested now in England for 20 years and actually the outcome is not good at all. It's not an improved education system, it's actually a very bad system ...

35. *ibid.*

36. D. Nason and S. Maiden, ‘Gillard guru in line for top job’, *Australian*, 6 October 2008, p. 4, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2F2MQR6%22>, accessed on 8 November 2008.

37. T. Cobbold, ‘Ideology win in school reporting’, *Canberra Times*, 3 September 2008, p. 19, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2FISFR6%22>, accessed on 8 November 2008. For examples of the New York education system’s school reports, see the *New York State School and District Report Cards for School Year 2006–2007* web site, <https://www.nystart.gov/publicweb/Home.do?year=2007>, accessed on 8 November 2008.

38. D. Harrison, ‘A New York state of mind’, *Age*, 13 October 2008, p. 5, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2F9OSR6%22>, accessed 8 November 2008.

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You end up with mania, or chasing the best school which is what's happened in England, where parents are obsessed with it and the league table is the thing that drives them.

... It can actually increase the gap between those who do well and those who [do] badly, which is bad education. Schools that take students from disadvantaged areas look bad in league tables.³⁹

While these concerns persist, there are regular reminders about the inequality of school education provision and outcomes. Most recently, from Brian Caldwell and Jessica Harris, authors of a new book about 'best schools':

While 80 per cent of Australia's schools are "among the best in the world", they say, there is "no question that a number are struggling, especially when they are in remote locations with large numbers of indigenous students or in disadvantaged areas in urban settings".⁴⁰

Meanwhile, Tasmania has already embarked on ranked performance reporting of schools, becoming the first state to publicly release ratings for every government school. The individual school reports include information about students' literacy and numeracy achievement, student and staff attendance and parent satisfaction.⁴¹

The role of the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA)

The establishment of ACARA has significant implications for the role and functions of MCEETYA.⁴²

Firstly, MCEETYA will be responsible for framing ACARA's charter, which will set the work program for ACARA. It will also approve the appointment of Board members, at the same time ensuring that between them the members possess the range of expertise to cover

39. N. MacBean, 'Govt warned to rethink education revolution', *ABC News*, 31 October 2008, <http://www.abc.net.au/news/stories/2008/10/31/2406237.htm?section=australia%20>, accessed on 19 November 2008.

40. J. Ferrari, 'Call to fast-track school reforms', *Australian*, 30 October 2008, p. 3, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2F4RYR6%22>, accessed on 8 November 2008.

41. M. Denholm, 'Gillard praises state for lead on ratings', *Australian*, 1 November 2008, p. 8, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2FHLZR6%22>, accessed on 8 November 2008. See also the Tasmanian Government's *School Improvement Report 2007* web site, <http://schoolimprovement.education.tas.gov.au/>, accessed on 8 November 2008.

42. For further information about MCEETYA's role and functions, see its web site at <http://www.mceetya.edu.au/mceetya/>, accessed on 8 November 2008.

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ACARA's functions. MCEETYA's oversight of ACARA will be conducted by way of resolution.

Not only does ACARA bring new administrative responsibilities for MCEETYA, but also some of its work will either overlap or possibly take over work currently done by or through MCEETYA. Certainly, MCEETYA will shed some to its current work to ACARA as some of its funding will be diverted to the new body for its work. However, it can only be conjectured at this stage how this will happen. It is likely that MCEETYA will continue, in some form, the collecting and reporting of aggregated data which is currently provided through the *National Report on Schooling in Australia*⁴³; and it may be the case that ACARA will focus on reporting individual school information. In any event, the data collected under ACARA's auspices should feed into the former and the National Report on Schooling continue in some form.

One question to be resolved is the future of the Curriculum Corporation, which is a partnership of Australian education ministers. It also provides curriculum and assessment services, which includes managing NAPLAN.⁴⁴

Financial implications

The Explanatory Memorandum states that the estimated financial impact of the Bill will be \$37.2 million over four years from 2008–09 to 2011–12.⁴⁵ This funding was originally provided in the 2008–09 Budget for the National Curriculum Board (\$20 million) and the National Schools Assessment Data Centre (\$17.2 million).

The Minister advises in her second reading speech that this commitment will be matched 'through existing contributions' made by the states and territories.⁴⁶ These payments are currently provided to MCEETYA for assessment and reporting purposes.

This funding will be augmented by fees that ACARA will be able to charge for its commercial services.

43. For further information, see the *National Report on Schooling in Australia* web site, <http://www.mceetya.edu.au/mceetya/anr/>, accessed on 8 November 2008.

44. For further information, see the Curriculum Corporation's web site, http://www.curriculum.edu.au/ccsite/cc_home.17988.html, accessed on 8 November 2008.

45. Explanatory Memorandum, op. cit., p.3.

46. Julia Gillard, 'Second reading speech: Australian Curriculum, Assessment and Reporting Authority Bill 2008', op. cit.

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Main provisions

Clause 4 establishes the constitutional basis for the Bill and sets out the heads of power relied on to support the validity of the Bill. These include the Commonwealth power to legislate with respect to:

- interstate and foreign trade and commerce (section 51(i))
- postal, telegraphic, telephonic, and other like services (section 51(v))
- collection of statistics (section 51(xi))
- external affairs (section 51(xxix))
- the Territories (section 122) and
- the executive power of the Commonwealth (section 61).

This drafting approach has been adopted to ensure that the Bill does not go beyond its power and to ensure that the heads of power listed may be relied upon.

Clause 5 establishes ACARA as a body corporate with a seal. It would operate as an independent statutory authority under the *Commonwealth Authorities and Companies Act 1997* (CAC Act).

Clause 6 sets out ACARA's functions, outlined at the beginning of this Bills Digest.

Subclause 7(1) requires ACARA to operate in accordance with written directions from MCEETYA and that, according to **subclause 7(3)**, ACARA must also undertake its functions and powers in accordance with this Bill, the CAC Act and regulations, and with its Charter. According to the definition in **Clause 3**, ACARA's Charter will be determined by MCEETYA.

Clause 9 would allow ACARA to charge fees for work done in performing its functions. **Subclause 9(2)** clarifies the provision will apply only to the extent that the fee is not a tax. This clarification is necessary because of constitutional requirements that require a separate law to impose a tax.⁴⁷

Clauses 11 to 20 provide for the establishment of ACARA's Board, including its role, membership, appointment and remuneration of members. Significant measures include:

- **Clause 13** which mandates the composition of the Board membership which will include the Chair and Deputy Chair of the Board and eleven other members comprising:

47. Section 55 of the Constitution provides that laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect.

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- one member nominated by the Minister
- one member nominated by the National Catholic Education Commission and representing Catholic systemic schools
- one member nominated by the Independent Schools Council of Australia and
- eight members, each nominated by their respective state and territory education minister and representing government education systems.
- **proposed paragraph 14(2)(a)** which requires that the appointment of members must be approved by MCEETYA
- **proposed paragraph 14(2)(b)** which requires that MCEETYA agrees that any appointment ensures that the members of the Board collectively possess an appropriate balance of professional expertise in:
 - matters relating to school curriculum
 - school assessment and data management
 - analysis and reporting in relation to school performance
 - financial and commercial matters in relation to the management of educational organisations and
 - corporate governance.
- **proposed paragraph 14(5)(b)** which stipulates that a person cannot be appointed as a member for longer than six years in total and
- **Clause 20** which enables the Minister to set any other membership terms and conditions not covered by the Act.

Clauses 21 and 22 govern meeting procedures and decision making procedures. **Clause 22** allows for decision making outside of meetings.

Clauses 23 to 34 govern the role and appointment of the Chief Executive Officer (CEO) and allow for the appointment of staff. Under **Clause 25**, the CEO is to be appointed by the Board by written instrument, after consultation with the Minister. **Subclause 25(3)** stipulates that the CEO cannot hold office for longer than three years and **subclause 25(4)** requires that the CEO not be a Board member.

Clauses 35 and 36 provide for the establishment of committees. The provisions include **subclause 35(2)** which allows for committees to be comprised only of board members, only of persons who are not Board members or a mixture of the two.

Clause 42 requires that any direction to ACARA by MCEETYA must be by means of a resolution by MCEETYA.

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Clause 44 requires that a review of ACARA be conducted six years after its commencement.

Concluding comments

The Bill presents the latest instalment of the Government's package of reforms for school education, albeit mostly a repackaging of two earlier Budget measures which will now be combined in the one authority under the combined auspices of the Australian and state and territory governments though MCEETYA. Still to come is the National Education Agreement for the provision of Australian Government funding for government schools and the National Partnerships covering teacher quality, raising achievement in disadvantaged school communities and improving literacy and numeracy levels.⁴⁸

However, the Bill provides only the broad framework within which the development of the national curriculum, collection and analysis of student assessment data and the reporting of school performance will occur. There is considerable work to be done in not only developing and implementing the national curriculum and determining the methodology for collecting, reporting and comparing student and school performance, but also in achieving stakeholder consensus about these matters.

Still remaining and underpinning the success of the goals towards which the Bill's main measures are directed—that of raising the educational performance of all students regardless of where they are located and their socioeconomic background—are the critical issues of teacher supply and teacher quality.

It is well accepted, and supported by research, that teacher quality is the paramount factor influencing student outcomes. Typical of this research is that conducted by Michael Barber, former adviser to British Prime Minister, Tony Blair. His research into why the world's best-performing school systems outdo other school systems, concluded the three most important factors were: getting the right people to become teachers, developing them into effective instructors and ensuring they deliver consistently for every child. Ultimately, 'the quality of an education system cannot exceed the quality of its teachers'.⁴⁹

Professor Barry McGraw, Chair of the National Curriculum Board, has been reported as saying that the new curriculum will have to be backed up by a surety that there will be enough properly trained teachers to teach the revamped subjects:

48. Julia Gillard, 'Second reading speech: Australian Curriculum, Assessment and Reporting Authority Bill 2008', op. cit.

49. M. Barber and M. Mourshed, *How the World's Best-performing School Systems Come Out on Top*, McKinsey & Company, [n.p.], 2007, p. 40, <http://dpl/Books/2008/WorldsSchoolSystemsFinal.pdf>, accessed on 13 November 2008.

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There will be some quite interesting differences proposed in the curriculum, so there's an important professional development activity that needs to go on. It will be partly about professional development, and it will be partly about recruitment.⁵⁰

The forthcoming National Partnership on Quality Teaching and how it will address these issues will therefore be of great interest.

50. F. Tomazin, 'New curriculum's teacher challenge', *Age*, 12 November 2008, p. 12, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2FSM2S6%22>, accessed on 13 November 2008.

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