

22 July 2016

The Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane Qld 4000

Email: lacsc@parliament.qld.gov.au

Dear Sir/Madam,

RE: HEALTH AND OTHER LEGISLATION AMENDMENT BILL 2016

Independent Schools Queensland (ISQ) is the peak representative body for the independent schooling sector in Queensland. ISQ provides leadership and support to member schools and represents and promotes the interests of independent schools to government and the community.

Our 200 member schools are a vital part of the state's education system. Together, these schools educate almost 120,000 students, or 15 percent of Queensland's school enrolments, this includes more than 3,900 Aboriginal and Torres Strait Islander students. Independent schools offer parents' choice in the education of their children. They enable families to select schools that best serve the child's needs. Independent schools also enable families to choose a school that best promotes the values they believe are important. Independent schools are, therefore, a diverse group and include:

- Non-denominational schools
- Schools with church or ethnic affiliations. For example, Lutheran, Anglican, Baptist, Jewish and Islamic schools
- Montessori schools
- Steiner schools
- Schools that specialise in serving students with learning difficulties
- Special Assistance Schools
- Schools for Indigenous students
- Schools with programs for gifted and talented students

Reference is made to the *Health and Other Legislation Amendment Bill 2016* which is currently being considered by the Legal Affairs and Community Safety Committee.

ISQ thanks the Committee for the opportunity to contribute to the review process and is pleased to provide the following response.

Proposed amendments

Public Health Act 2005

Disclosure of student information

Proposed amendment

- It is proposed that Principals will be obligated to disclose student and parent information to approved school health program providers (Clause 36 insertion of new ch 5, pt 4).

The proposed amendment will require schools to provide identified data to approved school health program providers for the purpose of seeking parental consent for the administration of the School Immunisation Program and School Dental Program. ISQ supports the intent of the amendment however has identified concerns in relation to privacy and independent school's requirement to comply with the Privacy Act 1988 (Cth) and the Australian Privacy Principles (APP). These concerns include the initial disclosure of information and the continued storage and destruction of the disclosed information. This will be the first time independent schools have been required to provide identified data, without explicit consent from parents and caregivers, to an external agency. This is a dramatic shift in process for independent school principals and will require appropriate supporting documentation to evidence the requirement and ample notification time to advise the parent body.

Particular concern is given to the disclosure of Indigenous status under 213AD (1)c and the exemptions that may safeguard this provision. ISQ represents a number of Indigenous boarding schools that house students from very isolated and remote communities. The communication with parents and guardians is often difficult due the constraints of geography and technology. It is with this in mind that ISQ frames its concern about the disclosure of Indigenous status.

Indigenous status is considered 'sensitive Information' under the Privacy Act 1988 (Cth). ISQ recognises the disclosure of sensitive information without consent is allowed where required or authorised by law (APP 6.2(b)). However, the disclosure of Indigenous status from parents on behalf of students is often provided with specific instructions around the purposes of use. This permission may or may not be given for cultural purposes. Identified disclosure of Indigenous status without consent is highly culturally sensitive and could unduly place principals in a problematic position. Under 213AD(3), exemptions are outlined where disclosure would not be in the best interests of the child. ISQ is of the belief that the prescribed exemption does not give sufficient scope to an independent school principal to allow an exception to this requirement based on cultural reasons or parental/guardian choice. Clarification is sought in relation to acceptable grounds for exemption.

It is understood that the intent of the amendment is to increase the rate of return of consent forms however the process as it has been outlined during consultation with Queensland Health will still require schools to send out the initial consent form, collate the returned forms and also provide external providers with all cohort data regardless of their return status. This process adds an additional administrative burden on schools on top of what is already a very laborious task. Clarification on how the data is to be delivered and in what form is also requested. Depending on the requirement, this could also contribute to an increased burden for schools if the format is not congruent with their individual data management systems. Unlike State schools there is no central

data source for independent schools in Queensland to draw on. As a result, the data will draw from a variety of data management systems in an array of formats. It is also unclear how discrepancies in the data will be managed due to the time lag between the initial transfer of data and delivery of the program. Rectifying these discrepancies will cause a further impost.

Furthermore, it is unclear how the data is to be stored and destroyed during and after its use. Under the Australian Privacy Act, data should be destroyed when it is no longer required for an authorised purpose and reasonable steps must be taken to destroy or permanently de-identify the personal information. (APP11.2) ISQ would want clarification and assurance that the data would be destroyed or de-identified upon completion of the process and assurance given to the school(s) necessary to fulfil independent school's requirements under the APP and provide parents/guardians with adequate information and reassurance of their privacy.

ISQ is happy to provide additional details or to discuss any items provided in the feedback. Do not hesitate to contact me if more assistance is required.

Once again thank you for the opportunity to provide feedback on these amendments.

Yours sincerely,

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

David Robertson
Executive Director