

## Agreement in Principle

**Ms VERITY FIRTH** (Balmain—Minister for Education and Training, and Minister for Women) [10.44 a.m.]: I move:

That this bill be now agreed to in principle.

I am pleased to introduce the Education Amendment (Publication of School Results) Bill 2009. This bill will permit the public reporting of school results in new national student tests on a nationally consistent basis. This bill will further cement the Rees Government's policy of providing meaningful information to parents about school performance, and will do so in a manner that is educationally responsible. The bill also is necessary to implement the agreements reached by the Council of Australian Governments in 2008 and by the Ministerial Council on Education, Employment, Training and Youth Affairs, known as MCEETYA. All State and Territory Governments and the Commonwealth have agreed that for the first time in 2009 there will be nationally uniform reporting about the results of individual schools. The Ministerial Council on Education, Employment, Training and Youth Affairs endorsed the principle that:

The provision of school information to the community should be done in such a way as to enhance community engagement and understanding of the educational enterprise.

The capacity to report on the results achieved by schools in the New South Wales education system has been the subject of a regulation since 1997. This prevents the publication of school test results in a manner that ranks or otherwise compares the results of individual schools. It also protects the publication of results that reveal the results of particular students without their consent. The Rudd Government was elected on a platform of greater transparency about school performance. In 2008 the Council of Australian Governments agreed to implement a new school performance reporting framework from 2009. The Council of Australian Governments agreed that greater transparency and accountability for the performance of our schools is essential to ensure that every Australian child receives the highest quality education and the greatest opportunity to achieve through participation in employment and society. The Council of Australian Governments also agreed that high quality accountability and reporting is important for students, parents, carers and the community.

This reporting framework encompasses streamlined and consistent reporting on national progress; an annual national report on the outcomes of schooling in Australia; national reporting on performance of individual schools to inform parents and carers, and evaluation by Governments of school performance, plain language student reports to parents and carers, and an annual report being made publicly available to each school community on the school's achievements and other contextual information; and performance indicators about progress towards achieving agreed outcomes and specific reporting on outcomes for indigenous students and students from low socioeconomic status communities.

This was a historic national decision, but it also reflects developments that have taken place in New South Wales over the past 10 years or more. It is important to understand some of this history to appreciate why the regulation on publishing school results, which is unique in Australia, has been in place, and why this bill retains its best elements. Since 1997 all public schools in New South Wales have been required to publicly report about their performance and, in particular, to publish information about their performance in externally conducted tests, such as the Basic Skills Tests in literacy and numeracy in primary school, the English Language and Literacy Assessment test and the Secondary Numeracy Assessment Program—ELLA and SNAP—in junior secondary, as well as the School Certificate and the Higher School Certificate in senior secondary.

Since 2008 the Basic Skills Tests, the English Language and Literacy Assessment test and the Secondary Numeracy Assessment Program have been replaced by equivalent tests under the National Assessment Program—Literacy and Numeracy, or NAPLAN. Since 1997 schools have reported their literacy, numeracy and other external test results in annual school reports that also let schools explain their performance in context. Over time, a culture of frank disclosure of performance has grown. By 2007, every school annual report was required to include the school's performance over time with optional reporting against the State average. More than 60 per cent of schools also report their test results against a group of schools with similar background characteristics, and hundreds of schools proudly publish their reports on their websites.

A key concept in these reports is that of mandatory "value added" and growth reporting. If we examine the performance of a group of students in year 10, for example, how does the same group of students perform in year 12? If a group of students in the bottom third of performance in year 10 reaches the State average by year 12, then the school has added value. Take one example of a 2008 report from one Sydney high school—I will not name the school. The report frankly illustrates, both in text and in graphical form, how students performed in the Higher School Certificate in comparison with the same students' performance two years earlier in year 10. The report clearly demonstrates that their average-achieving students had improved the most by year 12, while their higher-achieving students performed at about the same level as they did in year 10.

A matter of concern is that the report clearly indicates that the school's lower achieving students did not perform as well in year 12 as they did in year 10. This will be an issue of focus for the school over the next year. There is frank disclosure of both good performance and lower than expected performance in the same school. That is vital for the school community to know in order to take steps to improve, without sacrificing what it does well. Such information would be completely hidden, if a single number on a simplistic league table was all that was reported.

Over the last decade, schools have become much more comfortable in understanding their performance using hard data. In many schools, the involvement of teachers, parents and students in analysis of the school's performance has become a very tangible way in which the school community can come together to support student achievement. We have been able to achieve honest reporting to parents about the school their children attend, without allowing the potentially harmful and destructive effects of crude and simplistic league tables. Since 1997 the regulation under the Education Act has provided that school results relating to individual schools will not be publicly revealed in a way that ranks or otherwise compares the results of individual schools. That is, the method in which a publication of school results will occur is not to be one that allows, in a single publication, direct comparisons between individual schools.

The publication of a single school's results in an annual report does not infringe this requirement, nor does the publication of a school's results in comparison to measures like the State average or the average for a group of schools. But such comparisons differ from league tables. They do not allow a school's achievement to be whittled down to a single score. What is wrong with a league table? We briefly went through that experience in 1997 here in New South Wales. Following a freedom of information request, the tertiary entrance rank of the top student in every school was published. The tertiary entrance rank was a predecessor of the university admissions index, which as we now know has been replaced by a national index.

Only one school in the list had a top student whose tertiary entrance rank was below 50 per cent. A photograph of that school's year 12 was printed on the front page of a metropolitan newspaper under the heading "the class we failed". It was immensely hurtful and distressing to those individual students to have their identities known and their performance publicly revealed and criticised. This was not an analysis of their performance. It was public humiliation, pure and simple. That is the worst consequence for a school community if a crude league table is published. The league table concept is one that labels whole schools as either winners or losers. It is unfair, damaging, hurtful, anti-educational and not in the public interest.

All State and Territory Ministers have endorsed the important principle that public reporting should not be by way of crude league tables. Instead, the national agreement replicates the best features of the system we have developed in New South Wales—individual reports for each school, with rich information, rather than a single numeral. The protocols agreed by the Ministerial Council on Education, Employment, Training and Youth Affairs on 12 June specifically state:

Governments will not publish simplistic league tables or rankings, and will put in place strategies to manage the risk that third parties may seek to produce such tables or rankings.

The new Australian Curriculum, Assessment and Reporting Authority, a body that works to the Ministerial Council on Education, Employment, Training and Youth Affairs direction, will be supplied with the information necessary to enable it to publish relevant, nationally comparable information on all schools. That body will be subject to protocols and directions endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs. The Australian Curriculum, Assessment and Reporting Authority will make public information on each school in Australia, government and non-government. This will include a page of information about each school's performance, compared with a grouping of schools with similar characteristics.

Information about the schools within relevant groupings would be separately publicly available. It will include national testing results and school attainment rates, student population characteristics, teaching staff and financial resources. The information will be published on the Australian Curriculum, Assessment and Reporting Authority website. This will not be a simplistic league table. Rather, it will be conceptually similar to information that has already been made public by New South Wales schools for some years in their annual school reports. This has occurred consistently with the regulation and without any of the undesirable effects of simplistic league tables.

Because an argument may be made that provision of the results to the Australian Curriculum, Assessment and Reporting Authority by educational systems may of itself amount to publication in a way that allows comparisons of individual school results, there is some risk that it would breach the current regulation. If the Commonwealth then went on to make the relevant results public, that Government may also potentially be in breach of the existing regulation. There is doubt about whether the Australian Curriculum, Assessment and Reporting Authority would be constitutionally beyond the regulation's reach. This amendment will provide certainty by permitting New South Wales to provide such information to the authority if it is done in accordance with a national protocol or arrangement to which New South Wales is a party.

A further constraint that the bill would overcome is a 1997 protocol as part of the New South Wales public school teacher's award. This provides that the Department of Education and Training is not to "publish or broadcast, or aid in the publication or broadcast of any information or achievement which allows comparison between individual students or which will allow schools to be ranked in any publication or broadcast". That restriction may prevent New South Wales providing the information to the Commonwealth because there would be no absolute control over how third parties published or broadcast publicly available information. The bill therefore overrides this provision of the award.

The bill will continue to provide protection to the results of identified individual students. Their results will not be published without the consent of them or their parents, except in the context of recognition of excellent performance as currently occurs for Higher School Certificate results. To be clear, the bill allows de-identified data about individuals to be provided to the Australian Curriculum, Assessment and Reporting Authority for the purposes of analysis. National discussions have confirmed that the information enabling matching of particular students over time will be destroyed after the analysis is performed. These security safeguards will guard individual students' privacy in accordance with the requirements of the bill.

The existing regulation also prevents third parties from obtaining information from government in the form of a league table under freedom of information legislation. This will continue under the provisions of this bill. The Government has formed the judgement that this is one of the cases in which the public interest in publishing the information in a particular form is clearly overridden by the public interest against it. This information will be retained as an overriding secrecy law within schedule 1 to the new Government Information (Public Access) Bill 2009 introduced yesterday by the Premier.

Finally, the provisions of the existing regulation, subject to amendment, are moved into the principal Act. This is to ensure they cannot in future be watered down by regulation without the agreement of both Houses of Parliament. To make it clear, new section 18 (A) (3) maintains the existing New South Wales protection that school results must not be publicly revealed in a way that ranks or otherwise compares the results of particular schools, except as authorised by or under a relevant national agreement. The only change being introduced here is to allow the New South Wales Government to provide raw data to the Commonwealth. All other protections remain in place.

This bill gets the balance right. It builds on the record of increasing transparency about school performance, a record that New South Wales is proud of. Parents in New South Wales should have the right to detailed information about the performance of their child's school; information that presents a fair comparison of their school's performance against other similar schools—information that will not be used in a punitive manner, but information that will be used to drive continued improvement in school performance and to target additional resources to the schools; information that will allow us to work with school communities to target resources and programs and to use data on student performance as a diagnostic tool to inform teachers and drive better results for our students. At the same time this legislation leaves in place in New South Wales the protections that have been developed to prevent simplistic rankings that are not in the public interest.

It is vital for the education of children across New South Wales that this bill is passed urgently by this Parliament. New South Wales is required to provide this data to the Commonwealth under the terms of the national education agreement. Tied to this national agreement is \$4.8 billion in funding over the next four years. That is around \$1.2 billion per annum, or roughly 20 per cent of the annual cost of employing public school teachers and other school staff.

It is necessary to pass this bill now to be able to provide the relevant data to the Commonwealth in accordance with the agreed time line. That information needs to be provided to the Commonwealth within weeks to enable national publication towards the end of the year. If the State does not provide the data in accordance with the agreed time line, it will not satisfy the conditions for receipt of the funding. In short, failure to pass this bill would place this funding in jeopardy. More fundamentally, it would deny parents access to information about the performance of schools to which they should be entitled. I commend the bill to the House.