



Australian Education Regulation 2013

Select Legislative Instrument No. 195, 2013

I, Quentin Bryce AC CVO, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Australian Education Act 2013*.

Dated 25 July 2013

Quentin Bryce
Governor-General

By Her Excellency's Command

William Richard Shorten
Minister for Education

OPC50306 - A

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Part 1—Preliminary

Division 1—Preliminary

1 Name of regulation

This regulation is the *Australian Education Regulation 2013*.

2 Commencement

This regulation commences on 1 January 2014.

3 Authority

This regulation is made under the *Australian Education Act 2013*.

4 Definitions

(1) In this regulation:

5 national reform directions are the reform directions of quality teaching, quality learning, empowered school leadership, meeting student need, and transparency and accountability.

ACARA (short for Australian Curriculum, Assessment and Reporting Authority) means the authority established by section 5 of the *Australian Curriculum, Assessment and Reporting Authority Act 2008*.

Act means the *Australian Education Act 2013*.

approved system arrangement has the meaning given by subsection 5(1).

approved system authority has the meaning given by subsection 5(4).

attendance rate, for students at a school, means a percentage representing the total number of full-time equivalent days the

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students attended the school to receive primary education or secondary education, divided by the number of full-time equivalent days the students at the school could have received primary education or secondary education.

Note: Only certain students are taken into account for the purposes of this definition (see subsection (2)).

Australian Accounting Standards means the accounting standards issued or adopted by the Australian Accounting Standards Board, as in force from time to time.

Australian Auditing Standards means the auditing standards issued or adopted by the Auditing and Assurance Standards Board, as in force from time to time.

Australian Professional Standard for Principals means the standards of that name issued by the Australian Institute for Teaching and School Leadership Limited.

Note: In 2013, the Australian Professional Standard for Principals was accessible at <http://www.aitsl.edu.au>.

Australian Professional Standards for Teachers means the standards of that name issued by the Australian Institute for Teaching and School Leadership Limited.

Note: In 2013, the Australian Professional Standards for Teachers was accessible at <http://www.aitsl.edu.au>.

Australian Statistical Geography Standard means the geographical framework of that name published by the Australian Bureau of Statistics from time to time.

Note: In 2013, the Australian Statistical Geography Standard was accessible at <http://www.abs.gov.au>.

authorised person means a person authorised, in writing, by the Minister under section 33.

capital funding amount has the meaning given by subsection 64(1).

Data Standards Manual: Student Background Characteristics means the *Data Standards Manual: Student Background Characteristics*, issued by ACARA, as in force from time to time.

Note: In 2013, the Data Standards Manual: Student Background Characteristics was accessible at <http://www.mceecdya.edu.au>.

foundation means the year of schooling immediately before year 1.

ICT means Information and Communications Technology.

key individual: an individual is a **key individual** of an approved authority, a block grant authority or a non-government representative body if the individual:

- (a) is an officer, of the authority or body, within the meaning of section 9 of the *Corporations Act 2001*; or
- (b) is responsible for executive decisions of the authority or body; or
- (c) is concerned with, or takes part in, the management of the authority or body; or
- (d) manages or supervises the provision of school education for the authority or body under an arrangement with the authority or body.

language conventions means spelling, grammar and punctuation.

NAP means the National Assessment Program.

participating non-government school means a participating school that is a non-government school.

PISA means the Programme for International Student Assessment.

record includes an account or a document.

reporting period has the meaning given by subsection 52(3).

selected student means a student selected in a sample.

SES dimension means each of the following dimensions:

- (a) the education dimension;
- (b) the family income dimension;

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- (c) the household income dimension;
- (d) the occupation dimension.

statement of addresses has the meaning given by subsection 21(1).

Statistical Area Level 1 means an area designated by the Australian Bureau of Statistics as a Statistical Area Level 1 as mentioned in the Australian Statistical Geography Standard.

TIMSS means the Trends in International Mathematics and Science Study.

ungraded primary or secondary student means a student at a special school who receives primary education or secondary education at a level of education that constitutes primary education or secondary education (as the case requires) for the school under section 15 of the Act.

- (2) For the purposes of the definition of **attendance rate** in subsection (1), a student may be taken into account for a reporting period only if the student is:
 - (a) a full-time student who is:
 - (i) in any of years 1 to 10; or
 - (ii) an ungraded primary or secondary student; and
 - (b) enrolled for the entire reporting period.

5 Meanings of *approved system arrangement* and *approved system authority*

- (1) An **approved system arrangement** means:
 - (a) an arrangement of an approved authority entered into in accordance with subsection (2); or
 - (b) an arrangement of an approved authority for more than one participating school that:
 - (i) is entered into before this regulation commences; and
 - (ii) is a relevant arrangement; and
 - (iii) complies with the requirements set out in subsection 61(1), and with section 99 of the Act; and

- (iv) the Minister determines under subsection (3) is an approved system arrangement.
- (2) The Minister may, on behalf of the Commonwealth, enter an arrangement with an approved authority for more than one participating school if the Minister is satisfied that:
 - (a) once entered into, the arrangement would be a relevant arrangement; and
 - (b) the arrangement complies with the requirements set out in subsection 61(1), and with section 99 of the Act.
- (3) For the purposes of subparagraph (1)(b)(iv), the Minister may, in writing, determine an arrangement to be an approved system arrangement if the Minister is satisfied that the arrangement meets the requirements in paragraph (1)(b).
- (4) An **approved system authority** is the approved authority for an approved system arrangement.

Determination not legislative instrument

- (5) A determination under subsection (3) is not a legislative instrument.

Division 2—Interpretation

Subdivision A—Overseas students

6 Overseas students

For paragraph (b) of the definition of *overseas student* in section 6 of the Act, the following persons are excluded from being an overseas student:

- (a) a dependent of a person who is receiving a sponsorship or a scholarship for the purpose of undertaking a course provided by an institution in Australia that:
 - (i) is specified in Table A or B of subsection 4(1) of the *Higher Education Funding Act 1988*; and
 - (ii) is meeting the full cost of the education component of the course;
- (b) a person who is undertaking a course of study provided by an institution or body in Australia under a Student Exchange Program registered by the relevant education authority in the State or Territory where the person is undertaking the Program;
- (c) a person, or a dependent of a person, who is receiving a sponsorship or a scholarship from the Commonwealth for the purpose of undertaking a course provided by an institution or other body or person in Australia.

Subdivision B—Levels of education

7 Levels of education that constitute primary education for schools other than special schools

For section 15 of the Act, the years mentioned in column 2 of an item in the following table prescribe a level of education that constitutes primary education for a school (other than a special school) for the State or Territory mentioned in column 1 of the item.

Levels of education that constitute primary education for schools other than special schools

Item	Column 1 State or Territory	Column 2 Levels of education
1	New South Wales, Victoria, Tasmania, the Australian Capital Territory and the Northern Territory	Foundation to year 6
2	Queensland, Western Australia and South Australia	Foundation to year 7

8 Levels of education that constitute secondary education for schools other than special schools

For section 15 of the Act, the years mentioned in column 2 of an item in the following table prescribe a level of education that constitutes secondary education for a school (other than a special school) for the State or Territory mentioned in column 1 of the item.

Levels of education that constitute secondary education for schools other than special schools

Item	Column 1 State or Territory	Column 2 Levels of education
1	New South Wales, Victoria, Tasmania, the Australian Capital Territory and the Northern Territory	Years 7 to 10
2	Queensland, Western Australia and South Australia	Years 8 to 10
3	All States and Territories	Years 11 and 12

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9 Levels of education that constitute primary education and secondary education for special schools

- (1) For section 15 of the Act, the level of education that constitutes primary education for a special school is the education provided to:
 - (a) for Queensland, Western Australia and South Australia—students aged 4 to 12 at the school; and
 - (b) for any other State or Territory—students aged 4 to 11 at the school.
- (2) For section 15 of the Act, the level of education that constitutes secondary education for a special school is the education provided to:
 - (a) for Queensland, Western Australia and South Australia—students aged 13 to 21 at the school; and
 - (b) for any other State or Territory—students aged 12 to 21 at the school.

Part 2—Grants of financial assistance to States and Territories

10 Conditions of financial assistance—implementing national policy initiatives relating to school education

- (1) This section sets out the national policy initiatives for school education that a State or Territory must implement for section 22 of the Act (whether or not the State or Territory is a participating State or Territory).
 - (2) A State or Territory must do the following in relation to all students in all schools located in the State or Territory:
 - (a) improve the provision of school education to meet nationally agreed outcomes, objectives and targets, including for students with particular needs;
 - (b) implement policies and programs to ensure that all children are engaged in and benefit from schooling (including by supporting the most disadvantaged students agreed by the Ministerial Council);
 - (c) implement policies and programs to support students to complete education to year 12 (or an equivalent level) and to achieve nationally agreed outcomes, objectives and targets;
 - (d) take action to collect and provide data in relation to paragraphs (a) to (c) under nationally agreed performance reporting frameworks to allow governments to identify areas of need and direct resources accordingly.
- Note: The nationally agreed outcomes, objectives and targets are set out in the National Education Agreement which is set out in Schedule F to the Intergovernmental Agreement (within the meaning of section 4 of the *Federal Financial Relations Act 2009*).
- (3) A State or Territory must:
 - (a) participate in the governance of, and provide financial and other support for, the national education institutions to progress the policy directions, and implement the national reforms, agreed by the Ministerial Council; and

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- (b) provide effective regulatory oversight of all schools located in the State or Territory to ensure the quality and effectiveness of the provision of school education.

Note: The national education institutions include ACARA, the Australian Institute for Teaching and School Leadership Ltd and Education Services Australia Ltd.

- (4) A State or Territory must continue efforts to improve the quality of teachers at schools located in the State or Territory:
 - (a) having regard to nationally agreed professional standards for teachers; and
 - (b) through initiatives agreed by the Ministerial Council for nationally consistent teacher registration and accrediting initial teacher education courses.
- (5) A State or Territory must:
 - (a) implement the *Aboriginal and Torres Strait Islander Education Action Plan 2010-2014*; and
 - (b) develop and implement a new Aboriginal and Torres Strait Islander Education Action Plan to be in place after the *Aboriginal and Torres Strait Islander Education Action Plan 2010-2014* expires.

Note: In 2013, the *Aboriginal and Torres Strait Islander Education Action Plan 2010-2014* was accessible at <http://www.mceecdya.gov.au>.

11 Condition of financial assistance—recovering amounts

- (1) For section 24 of the Act, if the Minister makes a determination under paragraph 110(1)(a) of the Act that a State or Territory pay to the Commonwealth a specified amount, the State or Territory must (subject to subsection (6)) pay the amount by the time specified in the determination.

Assigning rights of recovery to the Commonwealth or recovering debts

- (2) A State or Territory must make an arrangement, in accordance with subsection (3), with each approved authority, block grant authority or non-government representative body to whom the State or

Territory may pay an amount of financial assistance in accordance with the Act.

- (3) The arrangement must provide that if:
- (a) the Minister makes a determination under paragraph 110(1)(a) of the Act that the State or Territory must pay to the Commonwealth a specified amount; and
 - (b) the Minister makes the determination as a result of:
 - (i) non-compliance or a breach by the authority or body mentioned in section 108 of the Act; or
 - (ii) a payment mentioned in subsection 109(1), (2) or (4) or paragraph 109(3)(a) of the Act that was paid to the State or Territory for the authority or body;
- then the amount mentioned in paragraph (a) of this subsection is a debt due by the authority or body to the State or Territory, and may be recovered by the State or Territory (or another person on behalf of the State or Territory) in a court.
- (4) The State or Territory must:
- (a) assign to the Commonwealth the right to recover the debt; or
 - (b) promptly recover the debt from the authority or body.
- (5) The Commonwealth must accept the assignment by the State or Territory of the right to recover the debt.
- (6) If the State or Territory assigns to the Commonwealth the right to recover the debt due by the authority or body, then:
- (a) the debt may be recovered by the Minister, on behalf of the Commonwealth, in a court of competent jurisdiction; and
 - (b) the debt due by the State or Territory to the Commonwealth that arises under subsection 111(1) of the Act is taken to be extinguished (and the State or Territory is not required to pay the amount to the Commonwealth under subsection (1) of this section).

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12 Pro-rating of recurrent funding—schools that begin to provide education, or become entitled to financial assistance under Part 3 of the Act, in a year

- (1) For section 27 of the Act, an amount of financial assistance is to be determined in accordance with this section for a year if one of the following events occurs during the year:
 - (a) a school begins to provide primary education or secondary education;
 - (b) a school (other than a school to which paragraph (a) applies) becomes entitled to financial assistance under Part 3 of the Act.
- (2) If the event occurs before 1 March in a year, the amount of financial assistance that is to be determined for the school for the year is the full amount of financial assistance.
- (3) If the event occurs after the first Friday in August in a year, a nil amount of financial assistance is to be determined for the school for the year.
- (4) If the event occurs on or after 1 March, and on or before the first Friday in August, in a year, the amount of financial assistance that is to be determined for the school is worked out using the following formula:

$$\begin{array}{l} \text{The amount of financial} \\ \text{assistance that is payable} \\ \text{for the school} \\ \text{for the year} \end{array} \times \frac{\begin{array}{l} \text{The number of days from the day the} \\ \text{event occurs until 31 December (inclusive)} \end{array}}{365}$$

13 Pro-rating of recurrent funding—schools that cease to provide education, or cease to be entitled to financial assistance under Part 3 of the Act, in a year

- (1) For section 27 of the Act, an amount of financial assistance is to be determined in accordance with this section for a year if one of the following events occurs during the year:
 - (a) a school ceases to provide primary education or secondary education;

- (b) a school (other than a school to which paragraph (a) applies) ceases to be entitled to financial assistance under Part 3 of the Act.
- (2) If the event occurs before 1 March in a year, a nil amount of financial assistance is to be determined for the school for the year.
- (3) If the event occurs after the first Friday in August in a year, the amount of financial assistance that is to be determined for the school for the year is the full amount of financial assistance.
- (4) If the event occurs on or after 1 March, and on or before the first Friday in August, in a year, the amount of financial assistance that is to be determined for the school is worked out using the following formula:

$$\frac{\text{The amount of financial assistance that is payable for the school for the year}}{\times} \frac{\text{The number of days from 1 January until the day the event occurs (inclusive)}}{365}$$

Part 3—Recurrent funding for participating schools

Division 1—Matters related to the funding formula

14 ARIA index value

For the definition of *ARIA index value* in section 6 of the Act, a school's ARIA index value is the average ARIA+ score for the Statistical Area Level 1 in which the school is located.

Note 1: In 2013, the average ARIA+ scores were obtained from the Australian Population and Migration Research Centre. The Australian Population and Migration Research Centre was responsible for the development and dissemination of the ARIA+ (2011) index.

Note 2: The Minister may determine the location of a school with more than one location for the purposes of working out the school's ARIA index value (see section 18 of the Act).

15 Commonwealth share

- (1) This section sets out the *Commonwealth share* for section 6 of the Act.

Approved authorities on 1 January 2014

- (2) If, on 1 January 2014, an approved authority is an approved authority for a school, the Commonwealth share for the school is the percentage that the Commonwealth provided of the approved authority's old per student amount for the school's final year of old funding.

Note: The old per student amount for 2013 and 2014 is determined under paragraph 58(1)(a) of the Act. For a later year, the old per student amount is determined under subsection (4).

- (3) A school's *final year of old funding* is the year immediately before the year that financial assistance is first worked out for the school under section 32 of the Act.

- (4) The Minister may, in writing, determine an approved authority's old per student amount for a year after 2014. In doing so, the Minister must have regard to the authority's old per student amount for 2013 and 2014.
- (5) Despite subsection (2), the Minister may, in writing, determine a higher percentage to be the Commonwealth share for:
- (a) a school whose approved authority was covered by section 59 of the Act (old per student amount for 2014 less than new per student amount for 2014); or
 - (b) a special school or special assistance school;
- if the Minister is satisfied that special circumstances justify the determination.

Approved authorities approved for schools after 1 January 2014

- (6) The Minister may, in writing, determine a percentage to be the Commonwealth share for a school whose approved authority is not approved as the approved authority for the school until after 1 January 2014.
- (7) In making a decision under subsection (6) for a school, the Minister must have regard to the average Commonwealth share for schools in that sector in the State or Territory in which the school is located.

Determination not legislative instrument

- (8) A determination under subsection (4), (5) or (6) is not a legislative instrument.

16 Definitions of kinds of students

- (1) For the definition of *Aboriginal and Torres Strait Islander student* in section 6 of the Act, a student is an Aboriginal and Torres Strait Islander student if:
- (a) either or both of the following apply:
 - (i) the student is of Aboriginal descent;
 - (ii) the student is of Torres Strait Islander descent; and

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- (b) the student identifies as a person of that descent; and
 - (c) the student is accepted by the community in which he or she lives as being of that descent.
- (2) For 2014, for the definition of *student with disability* in section 6 of the Act, a student at a school is a student with disability if the student meets the requirements of the State or Territory in which the school is located for financial assistance to be provided in relation to the student as a student with disability.

17 Disability loading percentage

For subsection 36(2) of the Act, the disability loading percentage is:

- (a) for a special school—223%; and
- (b) for any other school—186%.

18 Low socioeconomic status student loading

Students in quartile 1

- (1) For subsection 38(4) of the Act, the number of students at a school for a year who are in quartile 1 is the number of students at the school for the year who are identified, in writing, by ACARA as being in the Socio-Educational Advantage quartile 1.

Students in quartile 2

- (2) For subsection 38(7) of the Act, the number of students at a school for a year who are in quartile 2 is the number of students at the school for the year who are identified, in writing, by ACARA as being in the Socio-Educational Advantage quartile 2.

Note: ACARA identifies a student as being in quartile 1 or 2 by allocating all students in a school to a scale of Socio-Educational Advantage derived from the *Index of Community Socio-Educational Advantage* and segmenting the scale into quarters. In 2013, the *Index of Community Socio-Educational Advantage* was accessible at <http://www.acara.edu.au>.

19 Low English proficiency loading

For subsection 39(2) of the Act, the number of students at a school for a year who have low English proficiency is the number of students at the school for the year who are identified, in writing, by ACARA as disadvantaged language background other than English students.

- Note 1: ACARA identifies a student as a disadvantaged language background other than English student if:
- (a) ACARA identifies the student as having a language background other than English; and
 - (b) at least one of the student's parents completed school education only to year 9 (or equivalent) or below.
- Note 2: ACARA uses the definitions in the Data Standards Manual: Student Background Characteristics to determine language background and school education.

Division 2—SES scores

Subdivision A—Determining SES scores by legislative instrument

20 Determining SES scores by legislative instrument

For paragraph 130(2)(b) of the Act, in determining an SES score under subsection 52(2) of the Act for a school whose approved authority is an approved system authority, the Minister must have regard to the approved system arrangement of the authority.

Subdivision B—Determining SES scores by administrative decision

21 Minister may request residential addresses of students

- (1) For subsection 52(4) of the Act, the Minister may, in writing, request an approved authority for a school to give to the Secretary a statement (the *statement of addresses*) of the residential address of each student who receives primary education or secondary education at the school (except a student who receives distance education at the school).
- (2) The statement of addresses must not explicitly identify a student.
- (3) The approved authority must comply with the request in accordance with any determination made under subsection (4).

Note: For failure to comply with the request, see section 24.

- (4) The Minister may, in writing, determine:
 - (a) the day or days on which the statement of addresses must be given; and
 - (b) the form in which the statement of addresses must be given.

22 Requirement to assign residential addresses

The Secretary must ensure that at least 95% of the residential addresses included in a school's statement of addresses are assigned to the Statistical Areas Level 1 in which the addresses are located.

23 SES score—general

- (1) For subsection 52(4) of the Act, a school's SES score to be determined by the Minister must be the number worked out using the following formula:

$$\frac{\text{School's average SES dimension score for the education dimension}}{3} + \frac{\text{School's average SES dimension score for the family income dimension}}{6} + \frac{\text{School's average SES dimension score for the household income dimension}}{6} + \frac{\text{School's average SES dimension score for the occupation dimension}}{3}$$

Note: This section applies only in relation to an approved authority that has complied with section 21. For an approved authority that has not complied, see section 24.

- (2) The number worked out under subsection (1) must be rounded to the nearest whole number, rounding up a number that ends in .5.

Working out the school's average SES dimension score for an SES dimension

- (3) The school's **average SES dimension score** for an SES dimension is, subject to subsection (4), worked out by:
- adding up, for each residential address represented in the statement of addresses, the SES dimension score for the SES dimension of the Statistical Area Level 1 to which the address has been assigned; and
 - dividing the result by the total number of those SES dimension scores.

Part 3 Recurrent funding for participating schools

Division 2 SES scores

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Note: The SES dimension score of a Statistical Area Level 1 for an SES dimension:

- (a) is worked out by the Department; and
- (b) in 2013, was accessible at <http://www.deewr.gov.au>.

- (4) In working out an average SES dimension score under subsection (3), the Minister may include any residential address in the school's statement of addresses that the Minister considers was not, but ought to have been, included in that statement.

Note: This section does not apply to a school if the Minister is satisfied that determining the school's SES score in accordance with this section would result in an SES score that does not accurately reflect the general socioeconomic circumstances of the persons responsible for students at the school (see subsection 52(4) of the Act).

24 SES score—schools whose approved authority has not complied with subsection 21(1)

- (1) This section applies, despite section 23, if an approved authority for a school has not complied with section 21 in relation to the school.
- (2) For subsection 52(4) of the Act, the school's SES score to be determined by the Minister must be the score that the Minister considers accurately reflects the general socioeconomic circumstances of the persons responsible for students at the school.

Part 4—Capital funding, special circumstances funding and funding for non-government representative bodies

25 Special circumstances funding

For paragraph 130(2)(b) of the Act, the matters that the Minister may have regard to in making a decision for a school for a year that special circumstances justify a determination under subsection 69(1) of the Act are:

- (a) whether the special circumstances would not have been reasonably foreseeable by a competent approved authority; and
- (b) whether the special circumstances would, or are likely to, result in severe financial difficulty requiring the school to cease a large part of its educational activities, or significantly lower the quality of the education it provides, during the year; and
- (c) if the school were to receive financial assistance under subsection 69(1) of the Act, whether the school would be able to:
 - (i) resume operating satisfactorily within 2 years; or
 - (ii) continue operating until the end of the year; and
- (d) whether, having exhausted all other options to remedy the financial situation of the school (including all alternative sources of financial assistance), there is still a need for financial assistance under subsection 69(1) of the Act to address the school's immediate financial difficulties; and
- (e) whether the approved authority for the school has complied with the Act and this regulation; and
- (f) whether the approved authority for the school proposes to use any financial assistance provided under subsection 69(1) of the Act to pay any debts due to the Commonwealth that are recoverable by the Commissioner of Taxation; and

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- (g) whether the approved authority proposes to use any financial assistance provided under subsection 69(1) of the Act:
 - (i) in relation to the school, and the school has provided primary education or secondary education for less than 5 years; or
 - (ii) to lower the amount of debt the authority owes; or
 - (iii) as capital expenditure; and
- (h) whether the approved authority requires financial assistance under subsection 69(1) of the Act as a result of a financial loss resulting from inadequate insurance for capital facilities.

Part 5—Approved authorities and bodies

Division 1—Basic requirements for authorities and bodies

26 Not-for-profit requirement

For paragraph 130(2)(b) of the Act, the matters that the Minister may have regard to for the purposes of determining whether a person satisfies the requirement in subsection 75(3), 84(3) or 92(3) of the Act are:

- (a) whether the person has not-for-profit status under a law of the Commonwealth, a State or a Territory; and
- (b) whether:
 - (i) the person has financial policies and practices for a school in relation to which the person has applied to be an approved authority, block grant authority or non-government representative body; and
 - (ii) if so, the quality of those policies and practices; and
- (c) whether money derived from or relating to a school in relation to which the person has applied to be the approved authority, block grant authority or non-government representative body:
 - (i) has been applied for the purposes of the school or for the purposes of the functions of the authority or body; or
 - (ii) has been distributed (whether directly or indirectly) to an owner of the authority or body, or any other person; and
- (d) if the person is a body corporate—the requirements in any legislation under which the person is established, or in the person's constitution.

Note: A law of the Commonwealth under which a person may have a not-for-profit status is the *Australian Charities and Not-for-profits Commission Act 2012*.

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27 Financial viability requirement

For paragraph 130(2)(b) of the Act, the matters that the Minister may have regard to for the purposes of determining whether a person satisfies the requirement in subsection 75(4), 84(4) or 92(4) of the Act are:

- (a) whether the person is a body corporate that is being wound up; and
- (b) whether the affairs of the person are under any form of external control (for example, the control of a manager) under a law of the Commonwealth, a State or a Territory; and
- (c) whether the Minister considers that the liabilities of the person are greater than the person's assets; and
- (d) whether the Minister considers that the person is (and is likely to continue for a substantial period to be) unable to pay its debts as and when they fall due for payment; and
- (e) whether an audit conducted in accordance with a law of the Commonwealth, a State or a Territory:
 - (i) is expressed to be qualified; or
 - (ii) expresses concern about the financial viability of the person.

28 Fit and proper person requirement

Requirements for approved authorities

- (1) For paragraph 130(2)(b) of the Act, for the purposes of determining whether a person satisfies the requirement in subsection 75(5) of the Act, the Minister may have regard to:
 - (a) whether the person, or a key individual of the person, has experience and expertise in administering a school and providing education at a school; and
 - (b) whether the person has governance arrangements in place, including the following:
 - (i) arrangements for managing and supervising the provision of education at the school;

- (ii) arrangements to ensure compliance with the laws of the Commonwealth, a State or a Territory relating to the provision of school education; and
- (c) whether the person has debts due to the Commonwealth in relation to the provision of school education.

Requirements for all authorities and bodies

- (2) For paragraph 130(2)(b) of the Act, for the purposes of determining whether a person satisfies the requirement in subsection 75(5), 84(5) or 92(5) of the Act, the Minister may have regard to:
 - (a) whether the person has governance arrangements in place, including arrangements to receive independent and professional advice about the way in which the person complies with its obligations under the Act; and
 - (b) whether the person, or a key individual of the person, has a record of financial management, taking into account whether the person or individual has been bankrupt, insolvent or been placed under external administration; and
 - (c) whether the person, or a key individual of the person, has been convicted of, or charged with, an offence, including an offence in relation to children, dishonesty or violence (subject to Part VIIC of the *Crimes Act 1914*); and
 - (d) whether the person, or a key individual of the person, has engaged in a deliberate pattern of immoral or unethical behaviour.

Division 2—Ongoing policy and funding requirements for authorities and bodies

Subdivision A—Spending, or committing to spend, financial assistance

29 Approved authorities

Recurrent funding

- (1) For paragraph 78(2)(a) of the Act, an approved authority for a school must spend, or commit to spend, financial assistance that is payable to the authority in accordance with:
 - (a) Division 2 or 5 of Part 3 of the Act (recurrent funding for participating schools); or
 - (b) Part 4 of the Act (recurrent funding for non-participating schools);for the purpose of providing school education.
- (2) Without limiting subsection (1), the purpose mentioned in that subsection includes the following:
 - (a) salaries and other expenses relating to staff at the school, including expenses related to the professional development of the staff;
 - (b) developing materials related to the school's curriculum;
 - (c) general operating expenses of the school;
 - (d) maintaining the school's land and buildings;
 - (e) purchasing capital equipment for the school;
 - (f) for a school whose capacity to contribute percentage is 0%—purchasing land and buildings;
 - (g) in any case—administrative costs associated with the authority's compliance with:
 - (i) sections 77 and 78 of the Act (ongoing policy and funding requirements); and
 - (ii) if the authority is required to comply with Part 7 of the Act (implementation plans)—that Part.

Note: See subsection 54(1) of the Act for schools whose capacity to contribute percentage is 0%.

- (3) Despite subsections (1) and (2), financial assistance must not be spent, or committed to be spent:
- (a) as security to obtain, or comply with, any form of loan, credit, payment or other interest, except for the purposes of paragraph (2)(f); or
 - (b) for the preparation of or in the course of any litigation, except litigation by a State or Territory to recover a debt from an authority or body as mentioned in paragraph 11(4)(b).

Special circumstances funding

- (4) For paragraph 78(2)(a) of the Act, an approved authority for a school must spend, or commit to spend, financial assistance that is payable to the authority under Division 3 of Part 5 of the Act (special circumstances funding) in accordance with any written directions of the Minister.
- (5) For the purposes of subsection (4), the Minister may give written directions to an approved authority.

Direction not legislative instrument

- (6) A direction given under subsection (5) is not a legislative instrument.

Time limit for spending, or committing to spend, funding

- (7) Financial assistance mentioned in subsection (1) or (4) must be spent, or committed to be spent, in the year in which the financial assistance is paid to the approved authority.

30 Block grant authorities

- (1) For paragraph 85(2)(a) of the Act, a block grant authority for a school must spend, or commit to spend, financial assistance that is payable to the authority under Division 2 of Part 5 of the Act (capital funding) for the purpose of capital expenditure relating to the provision of school education.

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- (2) The financial assistance must be spent, or committed to be spent, in the year in which the financial assistance is paid to the block grant authority.
- (3) Financial assistance that:
 - (a) is paid to a block grant authority in accordance with the Act; and
 - (b) is recovered from:
 - (i) savings on capital expenditure; or
 - (ii) capital expenditure that has not proceeded;must be spent, or committed to be spent, on alternative capital expenditure within 1 year of that assistance being recovered, or any other period determined by the Minister.
- (4) The block grant authority may retain any interest earned on financial assistance that is payable to the authority under Division 2 of Part 5 of the Act. However, the block grant authority must spend, or commit to spend, the interest on capital expenditure relating to the provision of school education in accordance with any written directions of the Minister.
- (5) For the purposes of subsection (4), the Minister may give written directions to a block grant authority.

Direction not legislative instrument

- (6) A direction given under subsection (5) is not a legislative instrument.

31 Non-government representative bodies

For paragraph 93(2)(b) of the Act, a non-government representative body for a school must spend, or commit to spend, financial assistance that is payable to the body under Division 4 of Part 5 of the Act (funding for non-government representative bodies) for the purpose of supporting school education.

Subdivision B—Monitoring compliance of authorities and bodies

32 Application of this Subdivision

This Subdivision sets out requirements for monitoring compliance with the Act for:

- (a) approved authorities for paragraph 78(2)(b) of the Act; and
- (b) block grant authorities for paragraph 85(2)(b) of the Act; and
- (c) non-government representative bodies for paragraph 93(2)(c) of the Act.

33 Minister may appoint authorised persons

The Minister may, in writing, appoint a person as an authorised person if the Minister is satisfied that the person has suitable qualifications or experience.

34 Certificate to be given to Secretary

- (1) An approved authority, block grant authority or non-government representative body for a school must give the Secretary a certificate that relates to a year.
- (2) The certificate must be prepared by:
 - (a) for an approved authority for a government school located in a State or Territory:
 - (i) the Auditor-General of the State or Territory; or
 - (ii) a person appointed by the State or Territory Minister for the school; or
 - (b) for any other authority or body—a qualified accountant.
- (3) The certificate:
 - (a) must state whether:
 - (i) an amount equal to the sum of the financial assistance paid to the authority or body in accordance with the Act for the year has been spent, or committed to be spent, in

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- accordance with section 29, 30 or 31 (as the case requires); and
- (ii) for a block grant authority—interest earned on financial assistance provided under Division 2 of Part 5 of the Act (capital funding) has been spent, or committed to be spent, in accordance with section 30; and
- (b) must be given to the Secretary:
 - (i) on or before 30 June of the next year; or
 - (ii) another day allowed by the Minister.
- (4) In this section:
 - qualified accountant** means:
 - (a) a qualified accountant within the meaning of the *Corporations Act 2001*; or
 - (b) a person registered (or taken to be registered) as an auditor under the *Corporations Act 2001*; or
 - (c) a person approved by the Minister as a qualified accountant under subsection (5).
 - (5) For paragraph (c) of the definition of **qualified accountant** in subsection (4), the Minister may approve a person if the Minister is satisfied that the person has relevant qualifications or experience.

35 Requirement relating to financial assistance and financial operations—government schools

- (1) An approved authority for government schools located in a State or Territory must give the Secretary a report for each year that includes the following:
 - (a) the total amount of financial assistance paid in accordance with the Act that is allocated by the authority to the schools for the year;
 - (b) for participating government schools—the total amount mentioned in paragraph (a) broken down into each school’s base amount, and:
 - (i) loadings as mentioned in any of paragraphs 35(a) to (f) of the Act; or

- (ii) for an approved system authority—the loadings included in the authority’s approved system arrangement.
- (2) The report must be prepared by:
 - (a) the Auditor-General of the State or Territory; or
 - (b) a person appointed by the State or Territory Minister for the school.
- (3) The report must be given to the Secretary:
 - (a) no later than a day or days (if any) determined by the Minister; and
 - (b) in a way or ways (if any) determined by the Minister.

36 Requirement relating to financial assistance and financial operations—non-government schools

- (1) An approved authority, block grant authority or non-government representative body for a non-government school must give the Secretary a report for each year that includes the following:
 - (a) the total amount of financial assistance paid in accordance with the Act that is allocated by the authority or body to the school for the year;
 - (b) for an approved authority—the total amount mentioned in paragraph (a) broken down into the school’s base amount, and:
 - (i) loadings as mentioned in any of paragraphs 35(a) to (f) of the Act; or
 - (ii) for an approved authority that is an approved system authority—the loadings included in the authority’s approved system arrangement;
 - (c) in any case—a statement about how the financial assistance paid in accordance with the Act was used, or is intended to be used, by the authority or body, and the school;
 - (d) a statement about whether the authority or body, and the school, has in place satisfactory internal accounting systems, controls and procedures for records kept by the authority in accordance with section 37;

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- (e) a statement about the financial operations of the authority or body and the school, that includes the authority or body's financial viability, funding sources and the following:
 - (i) recurrent income and expenditure;
 - (ii) capital income and expenditure;
 - (iii) trading activities;
 - (iv) loans for recurrent or capital purposes;
 - (v) assets and liabilities;
 - (vi) any other financial information required by the Minister;
 - (vii) for approved authorities—refundable enrolment deposits.
- (2) The report must:
 - (a) identify any records kept by the authority or body in accordance with section 37; and
 - (b) include a copy of any financial statement prepared in accordance with section 38; and
 - (c) include a copy of any audit document prepared in accordance with section 38.
- (3) The report must not include any information that would identify a donor as a funding source of the school.
- (4) The report must be given to the Secretary:
 - (a) no later than a day or days (if any) determined by the Minister; and
 - (b) in a way or ways (if any) determined by the Minister.

37 Requirement to keep records

- (1) An approved authority, block grant authority or non-government representative body for a school must keep records relating to:
 - (a) the authority or body's compliance with the Act and this regulation; and
 - (b) for an approved authority, block grant authority or non-government representative body for a non-government

- school—the financial administration of the authority or body;
and
- (c) for an approved authority for a non-government school—the financial administration of the school.
- (2) The records of an approved authority, block grant authority or non-government representative body for a non-government school must:
- (a) be identifiably separate from other records that the authority or body may hold for the purposes of other undertakings the authority or body conducts or to which the authority or body is related; and
- (b) identify all income and expenditure that relates to any financial assistance paid to the authority or body in accordance with the Act.
- (3) A record kept under this section must be kept for 7 years.
- (4) Without limiting subsection (1), records relating to an approved authority's compliance with the Act or this regulation include records relating to enrolments and attendance rolls at schools for which the authority is approved.

38 Requirement for authorities or bodies for non-government schools to prepare and audit financial statements

An approved authority, block grant authority or non-government representative body for a non-government school must:

- (a) prepare financial statements in accordance with the Australian Accounting Standards that relate to any financial assistance paid in accordance with the Act to the authority or body in a year; and
- (b) have those statements audited in accordance with the Australian Auditing Standards and generally accepted auditing practices.

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39 Requirements for access to records and premises

- (1) An approved authority, block grant authority or non-government representative body for a school must (subject to subsection (6)) comply with the requirements mentioned in this section.
- (2) The authority or body must allow an authorised person full and free access to any record relating to:
 - (a) the authority or body's compliance with the Act and this regulation; and
 - (b) for an authority or body for a non-government school—the financial administration of the authority or body; and
 - (c) for an approved authority for a non-government school—the financial administration of the school.
- (3) The authority or body must allow the authorised person to take extracts from, or make copies of, the records.
- (4) An approved authority, block grant authority or non-government representative body for a non-government school must allow an authorised person to have the following for a purpose mentioned in subsection (2) or (3):
 - (a) full and free access to any premises occupied by the authority or body in its capacity as such an authority or body;
 - (b) for an approved authority for a non-government school—full and free access to the school, and a location of the school:
 - (i) to inspect the school; and
 - (ii) to count students at the school.
- (5) An approved authority, block grant authority or non-government representative body for a school must give or arrange for any help that the authorised person requires in exercising a power under this section.
- (6) An authority or body is not required to comply with subsections (2) to (5) unless:
 - (a) the authorised person gives reasonable notice to the authority or body of any access required under subsection (2) or (4); and

- (b) that access occurs at reasonable times.
- (7) An authorised person must seek and consider the views of the relevant authority or body on any access required by the authorised person under subsection (2) or (4).

40 Requirement to keep Minister informed

An approved authority, block grant authority or non-government representative body for a school must notify the Minister, in writing, if there are any changes to:

- (a) any information in the authority or body's approval under Part 6 of the Act; or
- (b) for an authority (other than an approved system authority) or body for a non-government school—any of the key individuals of the authority or body; or
- (c) for an approved system authority—a person who is, or who is acting in the capacity of, the chief executive officer or chief finance officer (however described) of the authority.

Division 3—Ongoing policy requirements for approved authorities

Subdivision A—Enhancing principal and teacher performance and professional development

41 Enhancing principal and teacher performance and professional development

For paragraph 77(2)(a) of the Act, an approved authority for a school must:

- (a) implement the *Australian Teacher Performance and Development Framework*; and
- (b) provide access to ongoing professional development consistent with the *Australian Charter for the Professional Learning of Teachers and School Leaders*.

Note: In 2013, the *Australian Teacher Performance and Development Framework*, and the *Australian Charter for the Professional Learning of Teachers and School Leaders*, were accessible at <http://www.aitsl.edu.au>.

Subdivision B—Implementing a curriculum

42 Implementing a curriculum

- (1) For paragraph 77(2)(b) of the Act, an approved authority for a school must implement at the school:
 - (a) the Australian Curriculum that is authorised by the Ministerial Council from time to time; or
 - (b) if ACARA assesses another curriculum as allowing comparable outcomes to the Australian Curriculum authorised by the Ministerial Council, and that curriculum is included in ACARA's Recognition Register—that curriculum.

- (2) An approved authority for a school must fully implement a curriculum, mentioned in subsection (1), in learning areas, and by the times, agreed by the Ministerial Council from time to time.
- (3) An approved authority for a school fully implements a curriculum at a school by teaching, assessing and reporting on student achievement using the content and achievement standards in the curriculum.

Subdivision C—National Assessment Program

43 Student assessments

- (1) For paragraph 77(2)(c) of the Act, an approved authority for a school ensures that the school participates in the National Assessment Program by requiring that:
 - (a) the assessments mentioned in column 1 of items 1 to 3 of the table in this subsection are undertaken; and
 - (b) any other assessments mentioned in column 1 of the table are undertaken if the school is selected in a sample; and
 - (c) the assessments mentioned in the table are undertaken by the students at the school mentioned in column 3 of the table; and
 - (d) other assessments are undertaken as agreed by the Ministerial Council.

Note: The other assessments mentioned in paragraph (d) would be outlined on the NAP website. In 2013, this website was accessible at <http://www.nap.edu.au>.

Assessments			
Item	Column 1 Assessments	Column 2 How frequently the assessments must be undertaken	Column 3 Who must undertake the assessments
1	NAP annual assessment in reading, writing and language conventions	Once a year	Students in each of years 3, 5, 7 and 9

Part 5 Approved authorities and bodies

Division 3 Ongoing policy requirements for approved authorities

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Assessments			
Item	Column 1 Assessments	Column 2 How frequently the assessments must be undertaken	Column 3 Who must undertake the assessments
2	NAP annual assessment in numeracy	Once a year	Students in each of years 3, 5, 7 and 9
3	NAP annual assessment in science literacy	Once a year from the year determined by the Ministerial Council	Students in each of the years determined by the Ministerial Council
4	NAP sample assessment in science literacy	Once in 2015	Selected students in year 6
5	NAP sample assessment in civics and citizenship	Once every 3 years beginning in 2016	Selected students in years 6 and 10
6	NAP sample assessment in ICT literacy	Once every 3 years beginning in 2014	Selected students in years 6 and 10
7	PISA assessment in reading, mathematical and scientific literacy and collaborative problem solving	Once every 3 years beginning in 2015	Selected students aged 15
8	TIMSS mathematics and science assessment	Once every 4 years beginning in 2015	Selected students in years 4 and 8

(2) The assessments must be undertaken:

- (a) with the frequency mentioned in column 2 of the table; and
- (b) no later than a day or days determined by the Minister.

Note: The performance of students in the assessments is reported under section 53.

(3) An approved authority for a school must provide data that is:

- (a) collected from enrolment information relating to students undertaking assessments mentioned in the table in subsection (1); and
 - (b) specified in the Data Standards Manual: Student Background Characteristics.
- (4) An approved authority for a school must participate in all activities associated with the NAP, in accordance with any written directions of the Minister.
- (5) For the purposes of subsection (4), the Minister may, in writing, give a written direction to an approved authority for a school.

Direction not legislative instrument

- (6) A direction given under subsection (5) is not a legislative instrument.

Subdivision D—School improvement planning

44 School improvement planning

- (1) For subparagraph 77(2)(d)(ii) of the Act, a school improvement plan for a school must:
- (a) include the following:
 - (i) contextual information about the school;
 - (ii) a description of the process for conducting a self-assessment of the school;
 - (iii) information about the school's performance based on the school's self-assessment, having regard to the *National School Improvement Tool* or any equivalent document (whether or not prepared by the Ministerial Council);
 - (iv) a description of the process for reviewing the school improvement plan; and
 - (b) focus on strategic planning, including on areas of the school that may be improved.

Note: In 2013, the *National School Improvement Tool* was accessible at <http://www.deewr.gov.au>.

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- (2) In developing the school improvement plan, the approved authority for the school must ensure the school has regard to the following:
- (a) the results of the school's self-assessment;
 - (b) how the 5 national reform directions apply to the school;
 - (c) the *Aboriginal and Torres Strait Islander Education Action Plan 2010-2014*;
 - (d) the *National Safe Schools Framework* or any equivalent document (whether or not prepared by the Ministerial Council).

Note: In 2013:

- (a) the *Aboriginal and Torres Strait Islander Education Action Plan 2010-2014* was accessible at <http://www.mceecdya.gov.au>; and
- (b) the *National Safe Schools Framework* was accessible at <http://www.deewr.gov.au>.

- (3) The approved authority must ensure that the school improvement plan is developed in consultation with persons responsible for students at the school and others in the school community.
- (4) The approved authority must ensure that:
- (a) the school's progress against the plan is reviewed each year and, if necessary, the plan is updated; and
 - (b) a report is prepared describing the school's achievements in relation to, and progress against, the plan in the previous year.
- (5) The approved authority must ensure that the school improvement plan, and the report mentioned in paragraph (4)(b), are published:
- (a) promptly after the plan has been developed or updated, or the report has been prepared, (as the case requires); and
 - (b) in a form that is readily accessible to the public.

Note 1: For example, a plan or report could be:

- (a) included in a school's annual report; or
- (b) published on a school's website; or
- (c) published on the approved authority's website.

Note 2: Information that has been made publicly available for the purposes of this section is not required to be made separately publicly available for the purposes of section 60 if the publication of that information complies with that section.

45 School improvement plans for approved authorities for participating schools other than approved system authorities

For an approved authority for a participating school other than an approved system authority, the school improvement plan for the school must also outline how the school level reforms within the National Plan for School Improvement (set out in Part 4 of the National Education Reform Agreement) are to be implemented at the school.

Note 1: One or more school improvement plans may constitute an implementation plan if the school improvement plan or plans comply with section 99 of the Act.

Note 2: In 2013, the National Education Reform Agreement was accessible at <http://www.betterschools.gov.au>.

Subdivision E—Information relating to a school’s census

46 Participating schools—providing information about a school’s census

- (1) For paragraph 77(2)(f) of the Act, an approved authority for a participating school must provide information each year to the Secretary relating to the school’s census in accordance with this section.
- (2) The approved authority for a participating school must provide the relevant information mentioned in sections 47 to 50.
- (3) The information must be included in a census return:
 - (a) for each location of the school; and
 - (b) in the form and manner approved by the Secretary.
- (4) A single census return provided by an approved authority for more than one participating school may include the information for more than one school.
- (5) A census return for a year must be given to the Secretary:
 - (a) no later than 7 days after the school’s census day for the year;or

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- (b) if the Secretary allows a longer period (whether before or after the period mentioned in paragraph (a))—before the end of that longer period.

47 Participating government schools—information about the schools

The following information about participating government schools located in a State or Territory must be included in a census return for the schools for a year:

- (a) the name of each school;
- (b) the street address of each location of each school;
- (c) the years of schooling offered by each school;
- (d) whether each school is a primary school, a secondary school or a combined school;
- (e) whether each school is a special school or a special assistance school.

48 Participating government schools—information about students

- (1) The following information about students receiving primary education or secondary education at participating government schools on the schools' census day for a year must be included in a census return for the schools for the year:
 - (a) the number of students at each school for the year;
 - (b) for each year of schooling at each school—the number of students at the school in each of the following categories:
 - (i) Aboriginal and Torres Strait Islander students;
 - (ii) students with disability;
 - (iii) students receiving distance education.

Note: For the number of students at a school for the year, see sections 16 and 17 of the Act.

- (2) For each year of schooling, the number of:
 - (a) overseas students; and
 - (b) students who hold or are included in a visa in force under the *Migration Act 1958*;

receiving primary education or secondary education at participating government schools on the schools' census day for a year must also be included in a census return for the schools for the year.

- (3) An overseas student is taken to be a student for the purposes of subsection (2).
- (4) Information must not explicitly identify any student.
- (5) If a government school has more than one location, the information mentioned in subsection (1) or (2) (except for subparagraph (1)(b)(iii)) must be provided for each location of the school.

49 Participating non-government school—information about the school

The following information about a participating non-government school must be included in the school's census return for a year:

- (a) the name of the school;
- (b) the street address of each location of the school;
- (c) the postal address of the school;
- (d) the school's email address;
- (e) the years of schooling offered by the school;
- (f) whether the school is a primary school, a secondary school or a combined school;
- (g) whether the school is a special school or a special assistance school;
- (h) the number of staff at the school in the following categories on the school's census day for the year:
 - (i) teaching staff;
 - (ii) staff who are not teaching staff;
 - (iii) full-time staff;
 - (iv) part-time staff;
 - (v) full-time equivalent staff;
 - (vi) Aboriginal and Torres Strait Islander staff;

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- (vii) if the school is a combined school—full-time equivalent staff providing primary education and full-time equivalent staff providing secondary education;
- (viii) if students board at the school—full-time equivalent staff with boarding duties and full-time equivalent staff without boarding duties.

50 Participating non-government school—information about students

- (1) The following information about students receiving primary education or secondary education at a participating non-government school on the school's census day for a year must be included in the school's census return for the year:
 - (a) the number of students at the school for the year, and the number of full-time and part-time students at the school for the year;
 - (b) for each year of schooling—the number of students at the school in each category that is defined by reference to the following characteristics as specified, in writing, by the Secretary:
 - (i) age;
 - (ii) sex;
 - (iii) Aboriginal and Torres Strait Islander students;
 - (iv) students with disability;
 - (v) students receiving distance education;
 - (vi) students who board.

Note: For the number of students at the school for the year, see sections 16 and 17 of the Act.

- (2) For each year of schooling, the number of:
 - (a) overseas students; and
 - (b) students who hold or are included in a visa in force under the *Migration Act 1958*;receiving primary education or secondary education at a participating non-government school on the school's census day

for a year must also be included in the school's census return for the year.

- (3) An overseas student is taken to be a student for the purposes of subsection (2).
- (4) Information must not explicitly identify any student.
- (5) If a non-government school has more than one location, the information mentioned in subsection (1) or (2) (except for subparagraph (1)(b)(v)) must be provided for each location of the school.

51 Non-participating schools—information about students

- (1) For paragraph 77(2)(f) of the Act, an approved authority for non-participating schools must provide information each year to the Secretary relating to the non-participating schools' census in accordance with this section.
- (2) The following information must be included in the schools' census return for a year:
 - (a) the total number of students at the schools for the year, and the number of those students broken down into the following categories (as the case requires):
 - (i) students receiving primary education;
 - (ii) students receiving secondary education;
 - (b) the number of overseas students at the schools, and the number of those students broken down into the categories mentioned in paragraph (a) (assuming overseas students were students).

Note: For the number of students at a school for the year, see sections 16 and 17 of the Act.

- (3) The information must be included in a census return in the form and manner approved by the Secretary.
- (4) The census return for the schools for a year must be given to the Secretary:

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- (a) no later than 7 days after the schools' census day for the year;
or
- (b) if the Secretary allows a longer period (whether before or after the period mentioned in paragraph (a))—before the end of that longer period.

Subdivision F—Information for the purposes of a national program to collect data on schools and school education

52 Information for the purposes of a national program to collect data on schools and school education

- (1) For paragraph 77(2)(f) of the Act, an approved authority for a school must provide information mentioned in sections 53 to 57 in relation to the school.
- (2) Information mentioned in section 53 must be given to the Minister:
 - (a) no later than:
 - (i) if the Minister determines a day or days—that day or those days; or
 - (ii) otherwise—a day or days that will allow publication of the report within one year after the end of each year;
and
 - (b) in a way or ways (if any) determined by the Minister.
- (3) Information mentioned in sections 55 to 57 must be given to ACARA:
 - (a) no later than:
 - (i) if ACARA determines a day or days—that day or those days; or
 - (ii) otherwise—a day or days that will allow publication of the report within one year after the end of each year;
and
 - (b) in a way or ways (if any) determined by ACARA.

- (4) The Minister may, in writing, determine a period (the *reporting period*) to which information, or a specified class of information, must relate.

Determination not legislative instrument

- (5) A determination made under subsection (4) is not a legislative instrument.

53 Required information—performance measures

The performance measures for students at a school must be provided as mentioned in section 52.

Performance measures

Item	Performance measures
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- | | |
|---|--|
| 1 | The performance measures for English literacy are: <ul style="list-style-type: none">(a) the percentage of students in each of years 3, 5, 7 and 9 at each level of proficiency in the NAP annual assessment in each of reading, writing and language conventions for the reporting period, including specific reference to the national minimum standards; and(b) the percentage of students, during the reporting period, in each of those years in each of the following categories:<ul style="list-style-type: none">(i) students who participated in those assessments;(ii) students who were absent from those assessments;(iii) students who were exempted from those assessments;(iv) students who were withdrawn from those assessments; and(c) the NAP mean scale scores for reading, writing and language conventions for the reporting period; and(d) the percentage of selected students achieving at or above level 3 of the proficient standard for the PISA assessment in reading literacy for the reporting period. |
| 2 | The performance measures for numeracy and mathematics are: <ul style="list-style-type: none">(a) the percentage of students in each of years 3, 5, 7 and 9 at each level of proficiency in the NAP annual assessment in numeracy for the reporting period, including specific reference to the national minimum standards; and(b) the percentage of students, during the reporting period, in each of those |
-

Part 5 Approved authorities and bodies

Division 3 Ongoing policy requirements for approved authorities

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Performance measures

Item Performance measures

years in each of the following categories:

- (i) students who participated in that assessment;
- (ii) students who were absent from that assessment;
- (iii) students who were exempted from that assessment;
- (iv) students who were withdrawn from that assessment; and

(c) the NAP mean scale scores for numeracy for the reporting period; and

(d) the percentage of selected students achieving at or above level 3 of the proficient standard for the PISA assessment in mathematical literacy for the reporting period; and

(e) the percentage of selected students achieving at or above intermediate for the proficient standard for the TIMSS mathematics assessment for students in each of years 4 and 8 for the reporting period.

3 The performance measures for science are:

- (a) for 2015, the percentage of selected students achieving at or above level 3.2 of the proficient standard for the NAP sample assessment in science literacy for students in year 6 for the reporting period; and
- (b) for the year determined by the Ministerial Council and for each later year, the percentage of students in each of the years determined by the Ministerial Council at each level of proficiency in the NAP annual assessment in science literacy for the reporting period, including specific reference to the national minimum standards; and
- (c) for paragraph (b), the percentage of students, during the reporting period, in each of the years determined in each of the following categories:
 - (i) students who participated in that assessment;
 - (ii) students who were absent from that assessment;
 - (iii) students who were exempted from that assessment;
 - (iv) students who were withdrawn from that assessment; and
- (d) for paragraph (b), the NAP mean scale scores for science literacy for the reporting period; and
- (e) the percentage of selected students achieving at or above level 3 of the proficient standard for the PISA assessment in scientific literacy for the reporting period; and
- (f) the percentage of selected students achieving at or above intermediate of the proficient standard for the TIMSS science assessment for students in each of years 4 and 8 for the reporting period.

4 The performance measures for civics and citizenship are the percentages of

Performance measures	
Item	Performance measures
	selected students achieving at or above the following level of the proficient standard for civics and citizenship in the NAP sample assessment in civics and citizenship for students in each of years 6 and 10 for the reporting period: (a) for students in year 6—level 2; (b) for students in year 10—level 3.
5	The performance measures for ICT literacy are the percentages of selected students achieving at or above the following level of the proficient standard for the NAP sample assessment in ICT literacy for students in each of years 6 and 10 for the reporting period: (a) for students in year 6—level 3; (b) for students in year 10—level 4.
6	The performance measure for vocational education and training is the percentage of selected students aged 15 to 19 years who successfully completed at least one unit of competency as part of a vocational education and training qualification at the Australian Qualifications Framework Certificate II or above during the reporting period.
7	The performance measures for student attendance are: (a) the attendance rate for students in the reporting period; and (b) the apparent retention rates from year 10 to year 12 for the reporting period.
	Note 1: See subsection 4(2) for who may be taken into account for the purposes of determining the attendance rate at a school.
	Note 2: An approved authority for a school is not required to provide the performance measures for an assessment mentioned in any of items 4 to 8 of the table in subsection 43(1) unless the school is selected in the sample for the assessment.

54 Form of information—performance measures

- (1) The percentages mentioned in paragraphs (a) and (b) of items 1 and 2, paragraphs (a) to (c) of item 3, and items 4 and 5, of the table in section 53 must be in a form that enables the publication of information to be broken down into the following categories:
- (a) sex;

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- (b) Aboriginal and Torres Strait Islander students;
 - (c) socioeconomic background;
 - (d) language background;
 - (e) disability;
 - (f) geographic location.
- (2) The percentages mentioned in paragraph (d) of item 1, paragraphs (d) and (e) of item 2, paragraphs (e) and (f) of item 3, and the information mentioned in item 7, of the table in section 53 must be in a form that enables the publication of information to be broken down into the following categories:
- (a) sex;
 - (b) Aboriginal and Torres Strait Islander students;
 - (c) socioeconomic background;
 - (d) geographic location;
 - (e) either:
 - (i) students in each of years 1 to 10; or
 - (ii) ungraded primary or secondary students.
- (3) In subsections (1) and (2):
- (a) the categories mentioned in paragraphs (1)(a) to (e) and (2)(a) to (c) are as described in the Data Standards Manual: Student Background Characteristics; and
 - (b) the category mentioned in paragraphs (1)(f) and (2)(d) is as approved by the Ministerial Council at its meeting in July 2001.

55 Required information—general information

The following information about a school must be provided as mentioned in section 52:

- (a) a short statement about the school that may include information about any of the following matters:
 - (i) the school's mission;
 - (ii) the school's values;
 - (iii) the school's focus;
 - (iv) the school's philosophy;

- (v) the school's achievements;
- (vi) the school's curriculum strengths;
- (vii) any specialist programs offered by the school;
- (viii) any student welfare programs offered by the school;
- (ix) any extra curricular activities offered by the school;
- (x) affiliations (if any) of the school;
- (b) whether the school is part of the Catholic school sector, the independent school sector or the government school sector;
- (c) the number of teaching staff at the school during the reporting period, including:
 - (i) the number of teaching staff, and full-time equivalent teaching staff, at the school; and
 - (ii) the positions of teaching staff at the school; and
 - (iii) the number of teaching staff at the school at each level of the Australian Professional Standards for Teachers;
- (d) the number of staff who are not teaching staff at the school during the reporting period, including the number of full-time equivalent staff who are not teaching staff at the school;
- (e) a statement about whether students, parents and teachers were satisfied with the school during the reporting period, including (if applicable) data collected using the National School Opinion Survey;
- (f) a statement of the financial information for a school during the reporting period that complies with the *My School ACARA FDWG 2011 Financial Data Reporting Methodology*.

Note: In 2013, the *My School ACARA FDWG 2011 Financial Data Reporting Methodology* was accessible at <http://www.acara.edu.au>.

56 Required information—information about a school's students

The following information about a school's students must be provided as mentioned in section 52:

- (a) the total number of full-time equivalent students at the school during the reporting period;
- (b) the number of students at the school during the reporting period who have a language background other than English;

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- (c) the attendance rate at the school for students at the school during the reporting period;
- (d) the attendance rate for each of the following categories during the reporting period:
 - (i) sex;
 - (ii) year of schooling;
 - (iii) Aboriginal and Torres Strait Islander students;
- (e) student results, which do not identify students, from each of the NAP annual assessments at the school for each of the years required to undertake the assessments.

Note: See subsection 4(2) for who may be taken into account for the purposes of determining the attendance rate at a school.

57 Required information—secondary schools and combined schools

For a secondary school or a combined school, the following information must be provided as mentioned in section 52:

- (a) the number of students at the school who participated in vocational education and training during the reporting period, including for each of those students:
 - (i) the number who were enrolled in a vocational education and training course (if any); and
 - (ii) the number of vocational education and training qualifications (if any) that were completed; and
 - (iii) the level of vocational education and training qualifications (if any) that were completed; and
 - (iv) the industry with which each vocational education and training course enrolled in was associated;
- (b) the number of students at the school who undertook a school-based apprenticeship during the reporting period;
- (c) the number of students at the school who undertook a school-based traineeship during the reporting period;
- (d) the number of students at the school who attained year 12 (or an equivalent level) during the reporting period;
- (e) the number of students at the school who at the end of their schooling completed a qualification other than year 12 (or an equivalent level) during the reporting period;

- (f) a statement of the tertiary entrance results (if any) of students at the school after the end of the students' schooling;
- (g) a statement of the destination of students at the school after the end of the students' schooling.

58 Form of information—information required under sections 55 to 57

The Minister may, by legislative instrument, determine categories into which information, or a class of information, required under section 55 to 57 is to be broken down.

Subdivision G—Reports to persons responsible for students at a school

59 Student reports

- (1) For paragraph 77(2)(f) of the Act, an approved authority for a school must provide a report to each person responsible for each student at the school in accordance with this section.
- (2) A report must be readily understandable to a person responsible for a student at the school.
- (3) A report must be given to each person responsible for the student at least twice a year.
- (4) For a student who is in any of years 1 to 10, the report must:
 - (a) give an accurate and objective assessment of the student's progress and achievement, including an assessment of the student's achievement:
 - (i) against any available national standards; and
 - (ii) relative to the performance of the student's peer group; and
 - (iii) reported as A, B, C, D or E (or on an equivalent 5 point scale) for each subject studied, clearly defined against specific learning standards; or
 - (b) contain the information that the Minister determines is equivalent to the information in paragraph (a).

Part 5 Approved authorities and bodies

Division 3 Ongoing policy requirements for approved authorities

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Note: An approved authority for a school may have obligations under the *Privacy Act 1988* in providing information.

- (5) For paragraph (4)(b), the Minister may, in writing, determine information that the Minister considers is equivalent to the information in paragraph (4)(a).

Determination not legislative instrument

- (6) A determination under subsection (5) is not a legislative instrument.

Subdivision H—Making information publicly available annually

60 Making information publicly available annually

- (1) For paragraph 77(2)(f) of the Act, the following information for a school must be publicly available within 6 months after the end of a year:
- (a) contextual information about the school, including the characteristics of students at the school;
 - (b) teacher standards and qualifications (as mandated in the State or Territory in which the school is located);
 - (c) workforce composition, including Aboriginal and Torres Strait Islander composition;
 - (d) student attendance at the school, including:
 - (i) the attendance rates for each year of schooling; and
 - (ii) a description of how non-attendance is managed by the school;
 - (e) student results in NAP annual assessments;
 - (f) parent, student and teacher satisfaction with the school, including (if applicable) data collected using the National School Opinion Survey;
 - (g) school income broken down by funding source;
 - (h) for a school that provides secondary education:
 - (i) senior secondary outcomes, including the percentage of year 12 students undertaking vocational training or

training in a trade and the percentage of year 12 students attaining a year 12 certificate or equivalent vocational education and training qualification; and

(ii) post-school destinations.

Note 1: Information that has been made publicly available for the purposes of section 44 is not required to be made separately publicly available for the purposes of this section if the publication of that information complies with this section.

Note 2: See subsection 4(2) for who may be taken into account for the purposes of determining the attendance rate at a school.

(2) The information mentioned in subsection (1) is the minimum information required, and this section does not prevent an approved authority for a school from making other information publicly available.

(3) The approved authority for a school must:

- (a) make the information publicly available on the internet; and
- (b) make arrangements to provide the information, on request, to a person who is responsible for a student and is unable to access the internet.

Note: An approved authority for a school may have obligations under the *Privacy Act 1988* in providing information.

Subdivision I—Needs-based funding arrangements

61 Needs-based funding arrangements

Approved system authorities

- (1) For paragraph 78(3)(a) of the Act, the requirements for a needs-based funding arrangement that is part of an approved system arrangement are that the needs-based funding arrangement complies with the following principles:
- (a) an amount per student should be provided representing the recurrent resources required to support a student with minimal educational disadvantage to achieve expected educational outcomes;

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- (b) an amount per student for non-government schools should recognise the capacity of the school's community to contribute financially to the school;
- (c) in addition to the amounts mentioned in paragraph (a), loadings should be provided to students and schools with additional needs in order to support student achievement, including:
 - (i) for students with disability; and
 - (ii) for Aboriginal and Torres Strait Islander students; and
 - (iii) for students with a low socioeconomic status; and
 - (iv) for students who have low English proficiency; and
 - (v) for schools based on location; and
 - (vi) for schools based on size;
- (d) a funding model should take account of efficiencies that can be realised while improving educational outcomes;
- (e) a funding model should be publicly available and transparent.

Note: A needs-based funding arrangement for an approved system authority must be set out in the authority's approved system arrangement. The approved system arrangement may include other matters (see subsections 5(1) and (2)).

- (2) Subsection (1) does not limit the matters a needs-based funding arrangement may deal with.

Note: For example, a needs-based funding arrangement may provide for loadings in addition to the loadings mentioned in paragraph (1)(c).

Non-government schools

- (3) For paragraph 78(3)(a) of the Act, the requirement for a needs-based funding arrangement for an approved authority for a non-government school (except an approved system authority) is that the authority distribute the following to the school:
 - (a) all financial assistance received for the school in accordance with Division 2 of Part 3 of the Act;
 - (b) the amount of financial assistance, received by the authority in accordance with Division 5 of Part 3 of the Act, that is determined to be payable for the school by the Minister under subsection (4);

- (c) if the non-government school is located in a participating State or Territory—all recurrent funding received for the school from the State or Territory.

Determination of amount for non-government schools

- (4) For paragraph (3)(b), if an approved authority receives an amount of financial assistance in accordance with Division 5 of Part 3 of the Act, the Minister may, in writing, determine the amount of financial assistance that is payable for each school for which the approved authority is approved.

Determination not legislative instrument

- (5) A determination under subsection (4) is not a legislative instrument.

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Division 4—Ongoing policy requirements for block grant authorities and non-government representative bodies

62 Information to the public about financial assistance

- (1) For paragraphs 85(2)(c) and 93(2)(d) of the Act, a block grant authority, or non-government representative body, for a non-government school must publish the following information each year:
- (a) for a block grant authority:
 - (i) the amount of financial assistance (if any) provided in the year under Division 2 of Part 5 (capital funding) of the Act to the authority; and
 - (ii) the application of that financial assistance;
 - (b) for a non-government representative body:
 - (i) the amount of financial assistance (if any) provided in the year under Division 4 of Part 5 (funding for non-government representative bodies) of the Act to the body; and
 - (ii) the application of that financial assistance;
 - (c) in any case—information about the way or manner in which a school applies for financial assistance;
 - (d) how decisions of the authority or body to allocate financial assistance are reviewed.

Note: For example, information mentioned in this subsection may be published on the internet.

- (2) The information mentioned in subsection (1) is the minimum information required, and this section does not prevent the authority or body from making other information publicly available.

Note: The authority or body may have obligations under the *Privacy Act 1988* in providing information.

Part 6—Actions Minister may take for failure to comply with the Act or this regulation, and to require amounts to be repaid

63 Limits on recovery of overpayments, recoverable payments and other unpaid amounts

This section prescribes, for subsection 110(3) of the Act, limits on amounts that may be determined under paragraph 110(1)(a) or (b) of the Act (actions the Minister may take for failure to comply with the Act).

Limits on recovery of overpayments, recoverable payments and other unpaid amounts

Item	If Division 2 of Part 8 of the Act applies to a State or Territory because ...	the amount that may be determined by the Minister under paragraph 110(1)(a) or (b) of the Act must not exceed ...
1	as mentioned in subsection 109(1) of the Act, the Commonwealth makes an overpayment under the Act to the State or Territory	the amount of the excess referred to in paragraph (b) of the relevant subsection in section 9 of the Act (definition of <i>overpayment</i>).
2	as mentioned in subsection 109(2) of the Act, the Commonwealth makes a recoverable payment under the Act to the State or Territory	the amount of the recoverable payment.
3	as mentioned in paragraph 109(3)(b) of the Act, the whole or part of an amount has not been repaid	the amount that has not been repaid as mentioned in paragraph 109(3)(b) of the Act.

Part 6 Actions Minister may take for failure to comply with the Act or this regulation, and to require amounts to be repaid

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64 Recovering capital funding when a school ceases to provide education

- (1) For subsection 109(4) of the Act, an amount (the *capital funding amount*) of financial assistance, mentioned in paragraph 109(4)(a) of the Act, that is provided for a school is recoverable if:
- (a) the capital funding amount is included in column 1 of an item of the table in this subsection; and
 - (b) the school ceases to provide any primary education or secondary education in the period mentioned in column 2 of that item.

When a capital funding amount may be recovered		
Item	Column 1 Capital funding amount	Column 2 Designated use period
1	\$75 001 to \$500 000	2 years plus one additional year for each \$50 000 of financial assistance that is over \$100 000
2	\$500 001 to \$1.5 million	10 years plus one additional year for every \$100 000 of financial assistance that is over \$500 000
3	Over \$1.5 million	20 years

- (2) If the school ceases to provide primary education or secondary education during the first half of the period specified in column 2 of an item in the table in subsection (1), the amount specified under paragraph 110(1)(a) or (b) of the Act must not exceed the capital funding amount.

Note 1: Paragraphs 110(1)(a) and (b) of the Act allow the Minister to require a State or Territory to repay an amount and reduce the amount that is payable to a State or Territory.

Note 2: Subsections (2) and (3) are prescribed for subsection 110(3) of the Act.

- (3) If the school ceases to provide primary education or secondary education during the second half of the period specified in column 2 of an item of the table in subsection (1), the amount specified

Actions Minister may take for failure to comply with the Act or this regulation, and to require amounts to be repaid **Part 6**

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under paragraph 110(1)(a) or (b) of the Act must not exceed the amount that remains if, each year in the second half of the period, the capital funding amount were reduced by equal proportions.

Example: Financial assistance of \$2 million is provided to a block grant authority to build a school building for a primary school. If the school ceases to provide primary education during the 10 year period after the financial assistance is provided, the entire amount may be recovered by the Commonwealth. For each year following that 10 year period, the amount that may be recovered by the Commonwealth reduces by 10%.

- (4) In determining a period for the purposes of subsection (2) or (3), round the period to the nearest full year.

Part 7—Miscellaneous

65 Making records of, using or disclosing protected information

- (1) For paragraph 125(1)(a) of the Act, the Minister may make a record of or use protected information for the following purposes:
 - (a) the purposes of the Act or this regulation;
 - (b) programs administered by the Minister;
 - (c) research into matters of relevance to the Department;
 - (d) statistical analysis of matters of relevance to the Department;
 - (e) policy development;
 - (f) any other purpose determined by the Minister under subsection (3).
- (2) The Minister may disclose protected information to the following persons for the following purposes:
 - (a) ACARA for the purposes of its functions;
 - (b) Australian Bureau of Statistics for the purposes of its functions;
 - (c) the Productivity Commission for the purposes of its functions;
 - (d) any other person determined by the Minister under subsection (3) for the purposes determined by the Minister.
- (3) The Minister may, by legislative instrument, determine any one or more of the following:
 - (a) a purpose for the purposes of paragraph (1)(f);
 - (b) a person or purpose for the purposes of paragraph (2)(d).

66 Giving notice to persons of proposed decisions

- (1) This section applies if the Minister proposes to make any of the following decisions:

- (a) a decision to make a determination under subsection 76(2) of the Act (approved authorities for government schools not taken to satisfy basic requirements);
 - (b) a decision to give a written direction to an approved authority under subsection 105(1) of the Act (Minister may give a direction in relation to an implementation plan);
 - (c) a decision to take action under subsection 110(1) of the Act in relation to a State or Territory because of a matter mentioned in section 108 of the Act (actions the Minister may take for failure to comply with the Act).
- (2) The Minister must, in writing, give the person mentioned in subsection (3) a notice that:
- (a) contains:
 - (i) the terms of the proposed decision; and
 - (ii) the reasons for the proposed decision; and
 - (b) invites the person to make a submission about the proposed decision within the period specified in the notice (which must be at least 28 days).

Note: A notice under subsection (2) does not affect any process that is set out in a relevant arrangement for resolving a matter.

- (3) The person who must be given a notice under subsection (2) is:
- (a) the relevant person for the decision; or
 - (b) for a decision under subsection 76(2) of the Act—the approved authority.

Note: For the definition of *relevant person*, see section 6 of the Act.

- (4) For paragraph 130(2)(b) of the Act, in making the final decision, the Minister must have regard to any submission made in accordance with this section in relation to the decision.

Note: The Minister may also be required to have regard to other matters (see subsections 105(3) and 110(4) of the Act).