CONSULTATION PAPER ON THE REGISTRATION OF SCHOOLS IN SOUTH AUSTRALIA

BACKGROUND

The Education and Early Childhood Services Registration and Standards Board (EECSRSB) has released a consultation paper on the registration of schools in South Australia.

The AISSA is seeking the views of schools on the consultation paper as it will prepare a submission in response to it. Individual schools may also wish to provide a submission to the EECSRSB by 5 July 2013. The Consultation Paper is attached.

When considering the Paper, it should be recognised that the legal framework is very different from the arrangements under the Non Government Schools Registration Board. Schools can be subject to substantial penalties for breaches of registration requirements. Therefore considerable care is necessary to ensure that registration requirements are clear and appropriate.

One of the implications is that schools should not be “pushed” into adopting particular changes by Board representatives but if there are any concerns they could be addressed through formal hearings. The Board could not make any adverse decisions about a school’s registration without a formal hearing. Due process and natural justice are now rights for schools when the Board is considering any applications for registration or reviewing registrations.


KEY ISSUES

The consultation paper canvasses the possibility of additional Registration criteria being established, beyond curriculum and safety and welfare of students. Consideration should be given to the purpose of any additional criteria and the implications. It could be argued that curriculum and student safety requirements address all areas appropriate for registration and many of the other suggested areas contribute to these arrangements. Areas such as financial operations and governance could have a greater impact on the independent sector because of its diversity. There are many different approaches to governance in independent schools that operate effectively.

The consultation paper frequently refers to evidence to satisfy specific registration requirements. This also includes references to essential evidence. It is questionable whether the Board has the power to require essential evidence. It could be argued that specifying essential evidence is in practice establishing additional registration criteria. It also could be argued that an applicant for registration, or a school that is having its registration reviewed, has the right to present whatever evidence it believes
appropriate and the Board has to consider the evidence presented. The AISSA is obtaining advice on this matter.

Despite these concerns about the legality of specifying evidence, many schools seemed to appreciate the approach of the Non Government Schools Registration Board of presenting a check list of matters to address.

The legislation does not contain any specific requirements for reviewing registration of schools. However, any review of registration must occur in accordance with any Regulations, which can only be established on the recommendations of the Board. Therefore, we should not assume that the processes adopted by the Non Government Schools Registration Board will continue. Page 7 of the paper sets out the process to be used to develop the new regulations.

The consultation paper contains limited guidance on expectations regarding curriculum matters. For example, it does not contain any proposed expectations on the implementation of the Australian Curriculum, recognising other curricula or the sometimes controversial issue of LOTE in Year 9. However, to some extent expectations on the implementation of the Australian Curriculum will be addressed in federal legislation and on that basis could be adopted by the Board.

An underlying issue is the standard to be expected by the Registration Board. The Registration criteria in the legislation refer to satisfactory instruction and adequate protection. It is possible that the Board may seek to use some areas of the legislation to interpret this as high standards. It could be claimed that the Board should not be seeking to judge high standards, it would be difficult to do so, and it is not appropriate for registration. High standards may be more appropriately addressed through school improvement plans through funding agreements etc.