

Education (Accreditation of Non-State Schools) (Survey Data) Amendment Regulation 2023

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, Grace Grace MP, Minister for Education, Minister for Industrial Relations and Minister for Racing, provide this human rights certificate with respect to the *Education (Accreditation of Non-State Schools) (Survey Data) Amendment Regulation 2023* (Amendment Regulation) made under sections 168 and 179 of the *Education (Accreditation of Non-State Schools) Act 2017* (the Act).

In my opinion, the Amendment Regulation is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Queensland Government provides accreditation to non-state schools to operate through the Non-State Schools Accreditation Board (the Board). The *Education (Accreditation of Non-State Schools) Act 2017* (the Act) and *Education (Accreditation of Non-State Schools) Regulation 2017* (the Regulation) provide the legislative framework for accreditation of non-state schools in Queensland. Section 179 of the *Education (Accreditation of Non-State Schools) Act 2017* states the Governor in Council may make regulations under the Act.

The Regulation provides for a variety of matters under the authority of the Act, including accreditation criteria for non-state schools (section 11 of the Act) and the information that a school must provide to the Board about the school (school survey data) prescribed by regulation (section 168 of the Act).

School survey data is collected by non-state schools and provided to the Board in an annual February census to inform the distribution of recurrent grants to non-state schools. School survey data includes information on the number of students enrolled: with disability; English as a second language requirements; living in an isolated zone; of Aboriginal or Torres Strait Islander descent; living in boarding facilities; and enrolled for distance education.

Students with disability in non-state schools receive support from the State Government through the *State recurrent grant and the Students with Disability Program for Non-State Schools*. The total number of students with disability enrolled at schools affiliated with each non-state school authority forms the basis for the distribution of funds. Currently, the distribution of funding is informed by the collection of school survey data.

From 2024, Queensland Government will collect data on the number of students with disability through the Nationally Consistent Collection of Data (NCCD) prepared by the Australian Government. Consequently, school survey data collected on the total number of students with disability via the annual February census is no longer required.

The purpose of the Amendment Regulation is to remove the requirement of schools to provide ‘the number of students who are persons with a disability’ as part of the February census to the Board.

The Amendment Regulation improves the administrative efficiency of schools, while the collection of data can continue through data obtained from the NCCD. The amendment reduces administrative burden on schools, and reduces incurring risks of confusion and potential conflicts in the data collected by two separate bodies.

The Amendment Regulation is made under and pursuant to sections 168 and 174 of the Act, to remove sub section 27(2)(c), requiring schools to provide “(c) the number of students who are persons with a disability.”.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

The Amendment Regulation engages the *right to education*, section 36 of the HR Act.

Section 36 – right to education

The *right to education* provides every child has the right to have access to primary and secondary education appropriate to the child’s needs.

The *right to education* is interpreted in international jurisprudence as encompassing the key elements of availability, accessibility, acceptability, and adequacy. Adequacy provides that it is flexible, open to review, and tailored to the needs of individual strengths.

The Explanatory Notes to the HR Act provide that this right is intended to be consistent with the provisions of the *Education (General Provisions) Act 2006* and provide rights in respect of the aspects of education service delivery for which the State is responsible.

Importantly, the right to education under the HR Act is a right to access education, as noted in the Legal Affairs and Community Safety Committee, Parliament of Queensland. Access incorporates underlying principles of non-discrimination, physical accessibility and economic accessibility.

Based on Article 13 of the International Covenant of Economic, Social and Cultural Rights, the right to education is key to empowering people with the ability to realise their human rights, to fully participate in society, achieve social mobility and enjoy human existence.

Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

The Amendment Regulation does not limit, restrict or interfere with the human rights protected under the HR Act. It reduces regulatory reporting processes, improving the administrative efficiency of non-state schools.

The right to education is therefore not limited by the Amendment Regulation, but rather enhanced, as it enables schools to provide education without the disruption of repeated data requests.

Conclusion

I consider that the *Education (Accreditation of Non-State Schools) (Survey Data) Amendment Regulation 2023* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

GRACE GRACE MP
MINISTER FOR EDUCATION
MINISTER FOR INDUSTRIAL RELATIONS AND
MINISTER FOR RACING

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