

6 May 2013

Manager
Philanthropy and Exemptions Unit
Indirect, Philanthropy and Resource tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: charities@treasury.gov.au



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RE: A statutory definition of charity - comments on the draft legislation and explanatory material

Dear Manager

Independent Schools Victoria welcomes the invitation to provide comment on the *Charities Bill 2013* exposure draft, the *Charities (Consequential Amendments and Transitional Provisions) Bill 2013* exposure draft, and the House of Representatives *Charities Bill 2013 and Charities (Consequential Amendments and Transitional Provisions) Bill 2013 Explanatory Material* document in support of introducing a statutory definition of charity.

This submission is made on behalf of our Member Schools, as well as in the light of the potential impact that the proposed statutory definition might have on Independent Schools Victoria in its role as a peak body and member service organisation.

Background

Independent Schools Victoria was established in 1949 and today represents, promotes the interests of, and provides services to 212 Member Schools. Our Member Schools educate more than 126,000 students on nearly 300 campuses across metropolitan Melbourne and in regional and rural Victoria.

This submission is shaped by the educational, social and philosophical diversity of the Independent sector. Our membership reflects a variety of religious faiths and ethos with schools affiliated to Anglican, Assemblies of God, Baptist, Brethren, Catholic, Christian, Coptic Orthodox, Greek Orthodox, Jewish, Lutheran, Islamic, Pentecostal, Presbyterian, Seventh-day Adventist and Uniting churches. There are inter-, multi- and non-denominational schools, as well as schools for students with learning difficulties and individual needs and schools adhering to the Montessori and Steiner education philosophies.

Submission

1. Independent Schools Victoria notes that schools should continue to be deemed charities as they provide public benefit by educating students and are operated on a not-for-profit basis. As such, we support:
 - the presumption of public benefit will be retained for the advancement of education
 - a six month deferral of commencement, with a start date of 1 January 2014.
2. As the Bill reconfirms the common law view that the advancement of education is of public benefit, Independent Schools Victoria notes with particular concern the proposed qualification or limitation of public benefit to "*a sufficient section of the general public*" and "*the numerical size of the section of the general public to whom the purpose is relevant.*" (refer Division 2 Purposes for the public benefit, 6 Purposes for the public benefit).

The membership of Independent Schools Victoria comprises a variety of schools of differing philosophical and educational views and we therefore contend that the proposed legislation should be amended so that once an entity has confirmed its status as advancing education, there is no further or additional requirements to be met.

3. There is concern with the Explanatory Material information (1.54, p. 20) that notes:

"Charging fees to members of the public for goods, services, or other benefits where the purpose is otherwise charitable is not inconsistent with a charitable purpose. While there must be a public benefit from the purpose, the benefit may be expressed in various ways and fees will be a merely another factor to be considered in applying the public benefit test."

As with No. 2 above, we contend that the proposed legislation should be amended such that once an entity has confirmed its status as advancing education, there is no need or basis in law for the charging of fees to be considered in applying the public benefit test.

4. We are concerned with the increasing reporting and regulatory burden being placed on our Member Schools, noting the extensive regulatory and legislative frameworks under which schools already operate at both the State and Commonwealth levels. The *Charities Bill*, in tandem with the associated legislation of the Government's charities and not-for-profits reform agenda, will only add to this burden.

This submission reflects our role as a contributor to the development of education policy and as an advocate for our membership, and education more broadly. We look forward to the development and implementation of education policy that supports innovation, is not constrained by excessive regulation, and does not limit the capacity of Independent schools to offer choice and diversity to parents.

The Committee Secretariat is most welcome to contact my office if additional information is required.

Yours sincerely



Michelle Green
Chief Executive