

# **AUSTRALIAN COUNCIL FOR THE DEFENCE OF GOVERNMENT SCHOOLS**

## **PRESS RELEASE 518#**

### **IS EDUCATION A CHARITY OR A RIGHT?**

#### **WEALTHY PRIVATE SCHOOLS AND SWEET CHARITY**

**The hidden ‘State Aid’ to private schools in Australia, the cash which provides ever more opulent resources to enhance their market profile, is gained through ‘CHARITABLE’ TAXATION EXEMPTIONS .**

This is made possible by the mediaeval view taken in Charities law that education, is a ‘charity’ not a ‘right.’

DOGS note that the problem is that education for all children is a ‘Right’, not a ‘Charity’.

But Public schools which regard education as a right, accessible for all children lose out – again.

A cashed-up private school like Geelong Grammar a charity case? you ask. Well — Yes.

In May, the Australian Charities and Not-For-Profit Commission (ACNC) released a snapshot of the first 250 charities to have registered with the organisation since it took over from the ATO as charity regulator last December. The majority are non-government schools, with some of Australia's wealthiest schools recognised as charitable institutions receiving **GST concessions, fringe benefit tax rebates and income tax exemptions.**

Recent ABS statistics show there are nearly 3000 non-government schools recognised as charitable institutions, such as wealthy Geelong Grammar and the Anglican girls' school SCEGGS in Darlinghurst.

The average person on the street thinks of charity as something that gives to the poor. But since the eighteenth century, the legal concept is much broader.

Under the common law definition, a charity must be "not-for-profit," have a "charitable purpose" and exist "for the public benefit". Currently, Treasury is developing a Commonwealth, statutory definition of charity to come into force in July 2014. The *Exposure Draft of the Charities Bill 2013* specifies that to have a "charitable purpose" the organisation must advance health, relief of poverty, education, religion, or other areas listed in the bill. Most independent schools will come under an entity that's for the advancement of education, but they need to have an independent factor about them.

A public school would not be charitable, because to be charitable you have to not be controlled by the government.

Public school advocates are attempting to level this very unequal 'playing field' and have set up an organisation known as the Public Education Foundation — the (PEF) They are discovering first- hand how the tax system favours private schools, particularly when it comes to philanthropic donation. The following excerpts from a report from **Crikey.com** by **Sasha Petrova**, a Melbourne freelance reporter, describes the situation faced by public school advocates attempting to get philanthropic donations for disadvantaged children that are over-represented in the public sector.

*It's not a level playing field when you're trying to actually get philanthropic dollars," CEO of the Public Education Foundation (PEF) Verity Firth told Crikey.*

*To attract philanthropic donations, non-government and government schools can establish building, library or scholarship funds that can be endorsed with deductible gift recipient (DGR) status. Firth says DGR tax exemptions for scholarship funds seem tailored more to non-government schools than public schools. Public schools face significant barriers to DGR status for scholarship funds, as the school must be open to at least 200,000 people. "Unlike non-government schools, most public schools are subject to local boundaries and can't argue to be open to that many people," Firth says.*

*The PEF was established as a charity that attracts donations, pools funds together and distributes them to schools of recognised need. Among others things, it provides scholarships to refugees and those in socioeconomic need. In addition to having the expertise to create philanthropic networks, the foundation is not limited by geographical boundaries, making its scholarship fund eligible for DGR.*

*However, that does not mean gifts to the foundation are all tax deductible. "Most of the things public schools ask us to do, we can't get tax deductions for," Firth said.*

*For example, a donor wanted to give \$18,000 to support indigenous education in regional NSW, suggesting the money could help employ Aboriginal parents or do "something creative to attract interest". But Firth had to tell the donor the gift wouldn't be tax deductible. Others might wish to donate computers, stationary or desks -- equipment public schools often lack -- but "that wouldn't attract DGR under the scholarship definition," Firth says.*

*The Review of Funding for Schools (or Gonski report) acknowledges donors are more likely to provide philanthropic gifts if they are eligible for a tax deduction. The review also notes that administration and endorsement of DGR funds is a significant burden that requires resources many public schools are unable to provide:*

*"The current arrangements are viewed to disadvantage schools with limited capacity to allocate resources to these tasks."*

*President of the Australian Council of State School Organisations Peter Garrigan concurs that private schools can make more. "No school in Australia under Gonski will lose a cent, but the problem is you've also got the ability of some schools to rake in more money," he told Crikey.*

*Recommendation 41 of Gonki's model advises the government to create a national fund to distribute philanthropic gifts and to "support schools in need of assistance to develop philanthropic partnerships".*

*Firth supports the recommendation and says it hasn't been addressed yet. But she also says it's important to expand the definition of DGR status to include specific areas of need relevant to public education. "What we've been lobbying the government to do is to give a broader definition of education as a deductible gift recipient category," she said. "I don't think any public advocate would argue we should be included in the charities definition. But in terms of philanthropic giving, it is ridiculous that we don't have categories of DGR that are just as useful."*

**BUT DOGS NOTE THAT THE BASIC PROBLEM IS THE VERY NOTION THAT  
EDUCATION OF ANY AUSTRALIAN CHILD IS A CHARITY, NOT A RIGHT.**

**THE DOGS RADIO PROGRAM**

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