

20 March 2009

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Dear Ms Jackson

SUBMISSION OF MAXIM INSTITUTE ON *PRIVATE SCHOOLS AND THE LAW*

1. Thank you for the opportunity to make this submission on the Issues Paper *Private Schools and the Law*. Maxim Institute is an independent research and public policy think tank, based in Auckland. We are a registered charitable trust, funded by donations.

SUMMARY OF POSITION

2. We agree with many of the points in the Issues Paper, including the Commission's comment that there are no serious problems with the way private or independent schools are run in New Zealand. However, we oppose some of the Commission's proposals.
 - a. We support the Commission's proposal for a register of independent schools that would help to provide more and better information for families and educators about independent schools. However, we believe the range of information published through the register should be expanded so that it can be more useful for parents to choose the best school for their child.
 - b. We also support the Commission's view that the law governing independent schools could be updated and improved. The Commission's proposal to remove ambiguity about the meaning of "efficient" and "suitable" as registration criteria of independent schools in section 35A of the Education Act 1989 would be a positive step to resolve confusion between the Ministry of Education, the Education Review Office (ERO) and independent schools.¹
 - c. We believe that what constitutes "suitable staffing" of independent schools depends on teachers' competence, not on whether they are registered.
 - d. A major purpose of the Commission's review of independent schools legislation is to clarify the relationship between the state and independent schools. We are concerned that some of the Commission's proposals would introduce more regulation in the areas of curriculum and freedom of school operations and that this would reduce the real value of independent schools—their ability to offer an education different to state schools. We believe that it would be better to maintain the status quo in these areas and avoid over-regulating the sector. This would help parents to be sure that the education their children receive at independent schools is a real alternative to what is offered at a state school.

THE VALUE OF INDEPENDENT SCHOOLS

3. The principle which underpins this submission is our belief that independent schools are vital to the New Zealand school system and civil society.
4. Firstly, although they represent a small proportion of the total number of enrolments,² independent schools offer a valuable alternative to families of children for whom education at a state or state-integrated school is not the best. Secondly, independent schools have the freedom to offer a curriculum and ethos which is different to state schools. This is because state schools must teach the New Zealand Curriculum and their boards and principals have less flexibility to decide how to run their schools. To contribute towards a vibrant civil society, independent schools should be afforded as much freedom from state regulation as possible to preserve their independent nature and in many cases their special ethos and character as religious schools.
5. Ensuring the education system can offer parents a choice of schools acknowledges that parents are the primary educators of their children and that they should be able to choose the best and most suitable school for their child. Choice can also allow a diversity of schooling to develop, which can help foster specialist and special character education. This kind of education can often cater better for the specific needs of particular children.
6. The submission will discuss our position in response to some of the Commission's questions, grouped under several headings where questions address a common theme. We are very happy to be contacted to discuss any aspect of this submission.

REGISTRATION CRITERIA AND PROCESS

General comments

7. This section deals with questions about registration of independent schools. Before responding to specific questions, we note generally that whatever registration criteria are established, they should not unduly restrict the freedom to establish new schools. This is because freedom of entry is an essential ingredient for encouraging independent providers or communities to establish new and different forms of schooling. Without it, the vitality of the independent schools sector, and the benefits that it can offer, will be reduced or lost.
8. If it is not easy for providers to start schools then the state will tend to have a monopoly on schooling and it can become difficult for parents to access schools which can offer different kinds of education (for example by specialising in trades, business, bilingual education, special education, sport or music or offering a curriculum different to the national curriculum). In New Zealand, the Education Act 1989 restricts freedom of entry in a few ways, for example, by centralising the authority to open and designate schools and by controlling the number of schools that can be opened in a particular area (the roll caps on integrated schools are a case in point).

Q1. A public register of independent schools

9. We support creating a public register of independent schools. This would provide more and better information for parents. This is important because providing good information about schools can assist parents to choose the school which is most suitable for their child.³ A register with a broad range of information, including the registration status of every independent school, would be helpful for parents.
10. A public register could also help ensure schools are accountable for the quality of the education they provide. To achieve this, the register would need to include information about what is taught and how pupils and teachers are achieving against expected standards of performance.
11. The Ministry of Education and the ERO might have a role in providing this information, for example through the edCentre website (www.edcentre.govt.nz) whose target audience is families of school children. Central education agencies should not be the only providers of information however, as an independent accreditation agency could also monitor and publish information about schools with open access to information. The advantage of an independent accreditation agency is that it could act as a

check on the quality of the information provided by the central education agencies. It would be the equivalent to a “Standard and Poors” for education.

12. While we support the register proposed by the Commission, we submit that it should include more information about independent schools’ performance. The kind of information which should be available to families should include:
 - a. school fees;
 - b. exam results;
 - c. courses available at the school;
 - d. specialist subjects which the school teaches;
 - e. the findings from the ERO’s evaluation of the school;
 - f. the value added by the school to pupils’ academic achievement;⁴
 - g. the number of stand-downs and expulsions in the previous year at the school.
13. A nationally representative telephone survey of 1,000 New Zealand parents (with a margin of error of +/- 3 percent) carried out by Colmar Brunton for Maxim Institute in 2004 found that parents would like more of this kind of information about their children’s schooling. For example:⁵
 - a. 89 percent of parents indicated that they would like to be supplied with more information on the quality of the teachers who would be teaching their child;
 - b. 89 percent of parents said that they wanted to know what areas a school specialises in;
 - c. 79 percent of parents wanted to know which schools in their area have the best and worst exam results; and
 - d. 61 percent of parents would like more information on truancy rates, stand-downs and expulsions, to help them choose a school for their child.
14. We submit that if a register of independent schools is created there is a case that it should include this sort of information since it is the kind that parents have said they want.

Q3. A minimum size rule for independent schools

15. We submit that another way to encourage freedom of entry for providers is to drop the minimum size rule of nine pupils for independent schools. A minimum size rule could represent a barrier for groups of parents or small communities to starting an independent school, for example, a school arising out of a shared home-schooling situation.

Q4. Definition of an independent school

16. We agree with the Commission that legislation should not strictly define what a school is. This is because what a school is might change to reflect the needs of families and education policy over time. For example, more experiments are occurring with school partnerships in New Zealand.⁶
17. It has also been suggested that the range of school designations under the Education Act 1989 should be expanded. This would allow more flexibility for schools to manage arrangements like partnerships which allow them to share classrooms, resources and teaching expertise.⁷

Q5. A “fit and proper person” test as a registration criteria

18. We also agree with the Commission’s proposal that a “fit and proper person” test should be applied to applicants wishing to register and manage an independent school. This would be in the interests of children’s welfare and safety; for example, to catch out people with criminal or behavioural problems.

Q8. The role of “efficiency” as a registration criterion

19. We support the Commission’s proposal to replace “efficiency” with “viability” as an overarching registration criterion and to have efficiency as one of several subsidiary registration criteria that determine the assessment of viability. We believe that this is sensible, since it would describe educational outcomes in broader terms than economic efficiency (that is, how to make best use of scarce resources).

Q9. Replacing “efficiency” with “viability”

20. The Commission discusses some proposals for how it thinks the concept of efficiency could be included in legislation to show “the state that it is stable, and will have an enduring presence,”⁸ but renaming it “viability.”
21. The Commission details a list of factors that could be assessed to determine “viability,” such as the:⁹
 - a. projected roll of the school;
 - b. age range and number of pupils;
 - c. school’s financial viability; and
 - d. stability of the governance structure and administration.
22. The Commission proposes that viability would be demonstrated before registration, and be reassessed as part of regular reviews of the school so that “ERO and the Ministry are aware of a school’s position.”¹⁰ Financial viability would be assessed by an external audit of the school’s accounts or, the Commission’s preferred option, a certificate of viability produced by the school’s accountant.
23. We acknowledge the advantage of using a broader term like “viable.” It may allow factors such as the governance of the school, the school environment and quality of school operations to be considered in a judgement about an independent school’s sustainability.
24. On the issue of a minimum size rule for independent schools, we agree with the Commission that a nine-student registration requirement is unnecessary and that it should not form part of any future registration criteria which may be adopted. A school’s size and projected roll is only one indicator of its viability, as other factors like the age range of pupils and the ability to hire and retain staff might also affect a school’s capacity to provide education. Imposing a minimum size rule could unduly restrict independent schools from starting and maintaining operations.

SCHOOL OPERATIONS

General comments

25. All schools should have the freedom to manage their own operations as much as possible because this allows them to be more responsive to the wishes of parents and the particular needs of children, and to decide the best way of allocating resources.¹¹ School boards and principals should have powers to develop curriculum that reflects the values of their school community, remunerate staff in a way appropriate to the school and to control the spending out of its budget.

Q11. School premises’ compliance with relevant statutory requirements

26. We agree with the Commission’s proposal that independent schools should have to adhere to a set of standards to ensure their premises are safe, such as by stating in law that schools should adhere to the appropriate statutes (including the Building Act 2004, the Resource Management Act 1991, health and safety legislation and local body requirements). This would help to clarify what requirements independent schools must comply with to meet the minimum standards for safety given that the current legislation is not clear on this point.

Q13. Guidance about the equipment of independent schools

27. More detailed regulations to specify the kind of equipment required to deliver a curriculum are unnecessary.¹² This is something that an independent school’s management should be able to decide for itself without placing a requirement in legislation. Further, it would create unnecessary compliance costs and could represent another disincentive for independent school operators to start a school.

Q14. Suitable staffing of independent schools

28. The Commission’s view on suitable staffing at independent schools is that they “require some flexibility in their staffing levels and skill base,”¹³ especially at small schools that have a variety of pupils of different abilities and ages. It believes the best way to deliver flexibility is to maintain the

current rules which specify that “all teachers in private schools, as in state schools, must be registered or hold an LAT” (a limited authority to teach).¹⁴ It does not rule out specifying additional criteria that might indicate what suitable staffing is in a particular school. For example, it believes “the state should also be able to assure itself that there will be a suitable number and range of staff for the size and age range of the school in question and the type of learning in which the school engages,”¹⁵ such as special needs education.

29. We believe that while the requirement of teacher registration is intended to provide assurances of the quality of the teaching staff at an independent school, this requirement prevents independent schools from hiring people who may be excellent teachers but are not registered. This is particularly important for smaller schools which might face difficulty in recruiting the right staff.
30. Instead, we believe that independent schools should have the freedom to appoint teachers they judge to be suitable, and that this freedom should extend to employing unregistered teachers. The current LAT provisions in the Education Act give schools some flexibility to do this, but we believe this is not enough. We therefore propose that the requirements for becoming a teacher at an independent school should be changed to focus on competence as judged by the school’s operators, rather than registration.
31. Elsewhere we have proposed how a set of professional standards for teachers could be developed and introduced.¹⁶ The standards would replace other current criteria and guidelines for teacher registration, like the requirement to complete a post-graduate teaching diploma at a recognised training institution. If these proposals were accepted in the future, we do not believe that independent schools should be limited to hiring teachers who have met professional standards. Independent schools should still be able to choose the teachers they think are the most competent. However they might choose to use the professional standards as a benchmark if they think this is helpful for identifying competent teachers.
32. Regarding how many staff there should be at an independent school, we think this is an issue which can be decided by a school’s leadership. Further regulation by the state in this area is unnecessary.

TEACHING AND CURRICULUM

General comments

33. We believe that independent schools should have the freedom to adopt a curriculum and teaching programme which reflects the values of the school community. Parents and schools should be able to work together to decide what these values are. The current situation in state schools makes this more difficult because of the requirement to teach the national curriculum which prescribes values and essential skills.
34. This requirement does not affect independent schools, however. Freedom of curriculum is therefore an important point of difference with state schools. This freedom should be protected so that parents who choose to send their child to an independent school can be confident that its curriculum reflects what they, as the school community, value.

Q15. Guidance for a “suitable” curriculum

35. The Commission believes that “legislation should set out some guidelines as to what amounts to a suitable curriculum” for independent schools.¹⁷ Currently, the Education Act 1989 does not describe what a “suitable curriculum” is for independent schools. The Commission notes this creates some problems for ERO to assess if independent schools are providing a suitable education. The Issues Paper sets out five options for what might be a reasonable set of expectations for providing a “suitable curriculum”:¹⁸
 - a. Listing the particular skills that should be learnt at school, like ensuring that schools help children to develop numeracy and literacy skills.
 - b. Drawing upon aspects of the national curriculum, while not teaching it, like the key competencies (thinking, using language, symbols, and texts, managing self, relating to others, and participating and contributing).

- c. Requiring schools to teach in the seven key learning areas of the national curriculum (English, the arts, health and physical education, languages, mathematics and statistics, science and social sciences).
 - d. Focusing on outcomes by requiring independent schools to prepare pupils for further education or employment.
 - e. Focusing on the twin outcomes of children being able to contribute to their local community and also to New Zealand, as “competent, contributing citizens.”
36. The Commission notes a further question about “whether all the guidance should be set out in the Act, or whether more detailed assistance might be contained in non-statutory guidelines published by the Ministry.”¹⁹
 37. We believe that options b. – e. are too prescriptive. If implemented, they would reduce the freedom which independent schools currently enjoy to teach a different curriculum to the national curriculum. The curriculum is prescriptive not just in its content, but also the values which are taught through the subject areas and may even influence the key competencies. We would not support requiring independent schools to teach the key competencies or the seven learning areas of the national curriculum, even in a reduced form.
 38. Similar to the Commission’s option a., we submit that independent schools should be required to teach basic skills in literacy and numeracy and to assess their pupils against national benchmarks for measuring pupils’ progress.²⁰ However, they should not be subject to any more curriculum regulation than this.
 39. Legislation passed in December 2008 has already created the requirement for schools to assess their pupils against national benchmarks.²¹ This would give independent schools the flexibility to teach a curriculum which is best for their pupils, but still require them to meet minimum standards for the educational achievement of pupils. This is important for protecting the social fabric of the community, since educational failure contributes to social dysfunction, including poverty, long term unemployment, poor health and crime.²²
 40. If curriculum requirements were to be more tightly prescribed by focusing on pupils’ outcomes, as in options d. and e., we think that they should be worded to include a sense of aspiration for education.
 41. This is different to framing outcomes in terms of functions such as to “prepare students for primary education,” “employment,” or “tertiary education.” We believe that education has a broader purpose: to help children to enter into a dialogue with an objective body of knowledge, to learn about their heritage and to develop a love of learning for its own intrinsic worth and satisfaction.²³
 42. We suggest the following sort of wording might be added to a focus on outcomes if it is favoured as a guideline for a suitable curriculum: “schools should generally foster engagement with and a love for learning.”

Q17. Guidance about the required standard of tuition

43. Currently section 35A(1) of the Education Act 1989 states that tuition is to be of a standard no lower than that of the tuition given to pupils enrolled at a state school of the same class. The Commission proposes that that more guidance needs to be given about what an acceptable standard of tuition is at independent schools.
44. We believe that requiring pupils at independent schools to meet standards in literacy and numeracy will sufficiently indicate what an expected standard of tuition is. The state should not need to give schools any more guidance about the expected standard of tuition if they are required to meet certain minimum educational standards for pupils and teachers.

Q18. Regularity of instruction

45. The Commission proposes that “‘regularity of instruction’ should be one of the factors to be weighed in considering the requirement that private schools provide tuition of a standard no lower than that in a state school.”²⁴

46. We think that school leaders are capable of deciding whether or not to tailor the school day or the school week to the requirements of the families of children at that school. For example, this might involve offering a morning and an afternoon school. Allowing independent schools this freedom would also be consistent with protecting their flexibility to respond to the wishes of parents and provide an alternative to the kind of education offered at state schools.

Q19. Redrafting of the “patriotism and loyalty” provision

47. Section 35A(1) of the Education Act 1989 currently states that education at independent schools should provide “suitably for the inculcation in the minds of students of sentiments of patriotism and loyalty.” The Commission believes this wording is outdated and that “the values underlying the current provision are important, but could be expressed to better reflect today’s society.” It recommends basing the provision on concerns for protecting democracy and civic participation.
48. Therefore, the Commission recommends that “a modern redrafting of the ‘patriotism and loyalty’ provision could refer to ‘supporting and promoting the principles and practice of New Zealand democracy, including concepts such as the rule of law and equal rights for all before the law.’”²⁵
49. We support the Commission’s proposal to change the “patriotism and loyalty” provision to this form because we believe it is important that independent schools should instil in pupils a sense of civic responsibility. This wording would help to define what citizenship means in terms of fostering participation in the democratic process and helping to foster respect for the rule of law among New Zealand children.

Q20. Providing for the physical and emotional welfare of pupils as a registration criterion

50. The Commission proposes that registration criteria for independent schools should cover the physical and emotional welfare of pupils. For example, the Commission believes that independent schools should be required to provide a “safe and supportive environment ... that include(s) school policies and procedures that make provision for the welfare of students,” or that the Minister of Education is satisfied that “the school will provide satisfactory levels of care for the children concerned.”²⁶
51. It also sets out a list of what features may define a safe or caring school environment. Features might include:²⁷
- a. adequate supervision;
 - b. the provision of medical and pastoral care;
 - c. dealing with bullying and harassment;
 - d. having appropriate and clear disciplinary procedures (including for suspensions and expulsions), and informing students and parents of the procedures; and
 - e. fair complaints procedures.
52. We believe this new registration criterion is unnecessary. We believe that school leaders are capable of providing a safe and caring environment for pupils without making it a requirement of legislation. Further, existing law is able to protect pupils at independent schools from bullying and harassment.

COMPLIANCE AND ENFORCEMENT

General comments

53. We believe that remedial measures should be used sparingly for independent schools so that their freedom from the state is protected.

Q29 & Q30. Sanctions on independent schools

54. However, we agree with the Commission’s proposal to establish a broader set of sanctions to deal with breaches of the law by independent schools. This is because we believe that it is unacceptable that deregistration is the only sanction possible when independent schools are found in breach of the registration criteria. The law should be more flexible to take into account a variety of breaches of the law that might require lighter responses.

Q31. Role of ERO and the Ministry of Education

55. We therefore favour the process suggested by the Commission where the Ministry and the ERO would work more closely with independent schools that are in breach of registration criteria. The process more closely resembles the procedures for dealing with problems at state schools: a problem is identified by an ERO review and the school works on improving its performance in that area. Independent schools should be allowed similar opportunities to improve without facing the sanction of deregistration.

REMAINING ISSUES

Q35. Procedures for suspending or expelling pupils

56. In relation to suspensions or expulsions from independent schools, we believe that legislation should set out what the rights and obligations of pupils, parents and independent schools are to ensure pupils are treated fairly.

Q36. Registration of independent correspondence or distance learning schools

57. As we believe that parents should have better access to the kind of schooling which best suits their child, we agree with the Commission that legislation should allow for independent correspondence schools to be established.

Q37. Consolidating the law

58. We believe that the Education Act 1989 is long, complex and needs to be simplified or even redrafted. We therefore support the Commission's proposal to write a new Part of the Act, where all the provisions relating to independent schools could be found in one place (including any new provisions which might be written as a result of adopting recommendations from the Commission's review).

Q39. Publishing non-statutory guidance

59. If the Ministry of Education were to provide more guidance to independent schools, as the Commission suggests, it should not create more work for schools. It should only be guidance which helps independent schools to meet minimum standards. The guidance might be worked out in consultation with Independent Schools New Zealand and other interested stakeholders.

CONCLUSION

60. It is pleasing to see the Government and the Law Commission looking at ways to improve the law governing independent schools. The focus on clarifying and improving the quality of the relationship between the state and independent schools is particularly welcome.
61. We submit that the Commission should be guided by recognition of the value of independent schools. The contribution these schools can make depends on them having sufficient scope and flexibility to offer families genuine alternatives to state education. Protecting this freedom is vital to independence of the sector, which forms a building block of a healthy civil society.
62. Please do not hesitate to contact us with any questions relating to this submission.

Yours faithfully,

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ENDNOTES

¹ The Education Act 1989, section 35A states: "the premises, staff, equipment, and curriculum of the school are suitable; that the instruction afforded therein is as efficient as in a public school of the same class; that suitable provision is made for the inculcation in the minds of the pupils of sentiments of patriotism and loyalty."

² The independent schools sector represented about four percent of pupil enrolments in 2007, teaching approximately 30,700 pupils: Ministry of Education, "New Zealand Schools: Nga-Kura o Aotearoa (2007)" (Wellington: 2008), 88, table A11.

³ Maxim Institute reviewed the benefits of providing information to families about schools and their children's schooling in S. Thomas, "Information for Parents," *The Parent Factor* (Auckland: Maxim Institute, 2005). Some specific research papers which also argued that parents will take advantage of good information if it is provided about schools include M.J. Marschall, "The Role of Information and Institutional Arrangements in Stemming the Stratifying Effects of School Choice," *Journal of Urban Affairs* 22, no. 3 (2000): 333-350; and P. Teske and M. Schneider, "What Research Can Tell Policymakers About School Choice," *Journal of Policy Analysis and Management* 20, no. 4 (2001): 609-631. English educational sociologist Stephan Ball is less optimistic about some parents' ability to choose schools, seeing choice as a way for the middle class to assert power by gaining credentials. See for example, S.J. Ball, R. Bowe and S. Gewirtz, "Circuits of Schooling - a Sociological Exploration of Parental Choice of School in Social-Class Contexts," *Sociological Review* 43, no. 1 (1995): 52-78. Nevertheless, Ball admits that parents use information they obtain or receive through their neighbourhood networks to help them make decisions about schooling S.J. Ball and C. Vincent, "'I Heard it on the Grapevine': 'Hot' knowledge and school choice," *British Journal of Sociology of Education* 19, no. 3 (1998): 377-400. Ball's concerns point to the need for accurate presentation of results for comparing schools, like value-added measures, in plain English so that these measures fairly represent the difference which schools (and teachers) make to pupils' learning. See, for example, K.J. Rowe, "Assessment, League Tables and School Effectiveness: Consider the Issues and 'Let's Get Real!'," *Journal of Educational Enquiry* 1, no. 1 (2000): 73-98; H. Goldstein et al., *The Use of Value-added information in judging school performance* (London: Institute of Education, 2000); H. Goldstein and S. Thomas, "Using Examination Results as Indicators of School and College Performance," *Journal of the Royal Statistical Society, A* 159 (1996): 149-163; H. Goldstein and D. Spiegelhalter, "League Tables and their Limitations: Statistical issues in comparisons of institutional performance. with discussion," *Journal of the Royal Statistical Society, A* 159 (1996): 385-443.

⁴ The value-added by a school could be communicated in the form of an indicator similar to that developed in the United Kingdom. It allows parents to fairly compare schools which have pupils of different abilities and socio-economic backgrounds. A prerequisite for developing such an indicator in New Zealand is a mandatory national assessment undertaken by all pupils at all schools from Year 1. This assessment must measure pupils' progress towards national literacy and numeracy benchmarks. For more extended discussion of these issues, see for example K.J. Rowe, "Assessment, League Tables and School Effectiveness: Consider the Issues and 'Let's Get Real!'", J. Buckingham, *Schools in the Spotlight: School Performance Reporting and Public Accountability* (St. Leonards, N.S.W.: Centre for Independent Studies, 2003); H. Goldstein and S. Thomas, "Using Examination Results as Indicators of School and College Performance," 149-163; H. Goldstein et al., *The Use of Value-added Information in Judging School Performance*; A. Ray, "School Value Added Measures in England" (London: Department for Education and Skills (DfES), 2006). On the use of indicators for judging pupils' progress in New Zealand, see J.A.C. Hattie et al., "Assessment Tools for Teaching and Learning (asTTle) Version 4, 2005: Manual" (Wellington: University of Auckland; Ministry of Education & Learning Media, 2005).

⁵ See S. Thomas and Maxim Institute, "Information for Parents."

⁶ The Ministry of Education is encouraging certain schools to work together as clusters through the Schooling Improvement programme. The aim is to improve pupils' achievement at those schools by drawing on "collaborative critique and outside expertise." In the year 2006-07 17 Schooling Improvement clusters were operating, involving 323 schools and 78,300 students of whom 41 percent were Maori and 26 percent Pasifika. See Ministry of Education, "Annual Report 2007" (Wellington: 2007), 35. Several schools in the Manukau area have also been experimenting with partnerships. Sir Edmund Hillary Collegiate and the Southern Cross Campus, for example, have a single board that directs different campuses on a common site. See City of Manukau Education Trust, "Governance and Complex Urban Campus Schools" (Auckland: City of Manukau Education Trust (COMET), 2007), 6.

⁷ City of Manukau Education Trust, "Governance and Complex Urban Campus Schools," 33.

⁸ Law Commission, "Private Schools and the Law," *Issues Paper*, 12 (Wellington: 2008), 52, para 7.48.

⁹ Law Commission, "Private Schools and the Law," 53, para 7.48.

¹⁰ Law Commission, "Private Schools and the Law," 53, para 7.48.

¹¹ For more detail, see Maxim Institute, "Freedom for Schools," *The Parent Factor*, 1 (Auckland: Maxim Institute, 2005).

¹² Law Commission, "Private Schools and the Law," 55.

¹³ Law Commission, "Private Schools and the Law," 165.

¹⁴ Law Commission, "Private Schools and the Law," 165.

¹⁵ Law Commission, "Private Schools and the Law," 165

¹⁶ P. Henderson and S. Thomas, "National Standards for Teachers, Students and the NCEA," *Policy Paper* (Auckland: Maxim Institute, 2008).

¹⁷ Law Commission, "Private Schools and the Law," 56

¹⁸ Law Commission, "Private Schools and the Law," 57.

¹⁹ Law Commission, "Private Schools and the Law," 57.

²⁰ Law Commission, "Private Schools and the Law," 57, para 7.65. P. Henderson and S. Thomas, "National Standards for Teachers, Students and the NCEA."

²¹ Education (National Standards) Amendment Act 2008.

²² These problems are rehearsed in the context of educational disengagement and unemployment in Ministry of Social Development, "Youth Transitions Report Series 2003" (Wellington: 2003) and Ministry of Education, "Schools Plus. Discussion document" (Wellington: Ministry of Education, New Zealand, 2008), 7.

²³ M. Oakeshott, *The Voice of Liberal Learning. Michael Oakeshott on education*, ed. T. Fuller (New Haven & London: Yale University Press, 1989); M. Irwin, *Follies and Fashions in New Zealand Education* (New Zealand Business Roundtable (NZBR), 1997), <http://www.nzbr.org.nz/documents/speeches/speeches-97/folliesandfashions.doc.htm> (accessed 20 March 2009).

²⁴ Law Commission, "Private Schools and the Law," 58.

²⁵ Law Commission, "Private Schools and the Law," 58-59.

²⁶ Law Commission, "Private Schools and the Law," 60.

²⁷ Law Commission, "Private Schools and the Law," 60.