



***EDUCATION AND HEALTH
STANDING COMMITTEE***

**CHILDREN MISSING OUT-
EDUCATION SUPPORT FOR:
- STUDENTS ON 457 VISAS
- STUDENTS WITH A DISABILITY**

**Report No. 4
in the 38th Parliament**

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Education and Health Standing Committee

Children Missing Out- Education Support For:

- Students On 457 Visas
- Students With A Disability

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EDUCATION SUPPORT FOR:
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- STUDENTS WITH A DISABILITY**

Report No. 4

Presented by:
Dr J.M. Woollard, MLA
Laid on the Table of the Legislative Assembly
on 19 November 2009

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COMMITTEE'S FUNCTIONS AND POWERS

The functions of the Committee are to review and report to the Assembly on:

- (a) the outcomes and administration of the departments within the Committee's portfolio responsibilities;
- (b) annual reports of government departments laid on the Table of the House;
- (c) the adequacy of legislation and regulations within its jurisdiction; and
- (d) any matters referred to it by the Assembly including a bill, motion, petition, vote or expenditure, other financial matter, report or paper.

At the commencement of each Parliament, and as often thereafter as the Speaker considers necessary, the Speaker will determine and table a schedule showing the portfolio responsibilities for each committee. The annual report of government departments and authorities tabled in the Assembly will stand referred to the relevant committee for any inquiry the committee may make.

Whenever a committee receives or determines for itself fresh or amended terms of reference, the committee will forward them to each standing and select committee of the Assembly and Joint Committee of the Assembly and Council. The Speaker will announce them to the Assembly at the next opportunity and arrange for them to be placed on the notice boards of the Assembly.

INQUIRY TERMS OF REFERENCE

That the Committee inquire into:

- (1) The level and type of educational support given to children of Subclass 457 visa holders.
- (2) How funding for school children who have English as a Second Language (ESL) can effect a child's social and educational development.

The Committee report to the Legislative Assembly by the 19th November 2009.

CHAIRMAN'S FOREWORD

This is the fourth report from an inquiry conducted by the Education and Health Standing Committee (EHSC) in this parliamentary term.

The Inquiry was undertaken because of the concern that our educational system is failing children whose parents enter Western Australia on 457 visas (ESL 457 students). There is concern that these children are being neglected in terms of their social and educational needs. The lack of support for these students is causing additional stress for teachers and other children in the classroom.

The number of 457 student enrolments is increasing with no funding model in place to guarantee there is no discrimination against them. Some states provide additional funding for students for whom English is a Second Language (ESL) and for 457 students. However, in the past the Commonwealth formulae for State funding has excluded additional funding for ESL programs for 457 students.

The WA Department of Education and Training reported to the Committee that they provide ESL programs for 457 students on the basis of 'spare capacity'. This mode of provision for ESL programs for 457 students is unacceptable.

With the introduction of the National Education Agreement in 2009, Commonwealth funding for education is based on the per capita number of students in each jurisdiction. The Agreement does not currently take into consideration the number of 457 students for whom English is a Second Language.

WA has obligations to ensure all children have equity in relation to the delivery of education. As the current funding arrangement does not take into account ESL for 457 students, the responsibility for this funding allocation falls on the State Government.

This Report seeks detailed budgetary information from the Department of Education in terms of children on 457 visas. The Department are asked to provide the estimated costs per student at pre-primary, primary and secondary level. Hopefully, this cost analysis will ensure that future funding will be sought and supplied directly to those schools that have students enrolled under 457 visas.

Some other States have amended their legislation to allow a means-tested fee to be administered for students whose parents are in Australia on a temporary visa. This Report recommends such a means tested fee be applied to ESL 457 students enrolled in Western Australian primary and secondary schools.

As part of this Inquiry, the Committee became aware of the differences between the States in relation to the eligibility criteria for funding for Students with Disabilities. The Committee learned that the current eligibility criteria for *Schools Plus* funding was inadvertently excluding some students with disabilities, including ESL 457 students, who otherwise required significant, and often ongoing, teaching and learning adjustments.

The Committee was informed that a review of the *Schools Plus* program is being conducted by the Department of Education and Training (DET). The Committee recommends that, as part of this review, DET should reconsider the current eligibility criteria for *Schools Plus* and the current use of Indicated Groups with a view to adopting a purely functional assessment approach focusing on educational needs.

In tabling this Report I would like to thank the individuals who have given their time to contribute and assist this review by giving evidence and forwarding written materials. My personal thanks go to Ms Abbey Beaumont, my principal research officer and legal adviser, who with the permission of the Committee, assisted the Inquiry and my preparation of this Report.

I would like to thank all members of the Committee 'team'. My fellow Committee Members, Mr Peter Abetz, Mr Ian Blayney, Ms Lisa Baker and Mr Peter Watson. In addition, our Principal Research Officer Dr David Worth and our Research Officers, Mr Tim Hughes and Miss Renee Gould. Our Committee staff continue to provide guidance and assistance which is greatly valued by all Committee Members.

Janet Woollard

DR J.M. WOOLLARD, MLA
CHAIRMAN

ABBREVIATIONS AND ACRONYMS

ACT	Australian Capital Territory
COAG	Council of Australian Governments
DEEWR	Department of Education, Employment and Workplace Relations
DET	Department of Education and Training
ESL	English as a Second Language
ESL 457 students	Children of ESL Subclass 457 visa holders
ESL – NA	English as a Second Language – New Arrivals Program
ESL programs	Intensive English Centres, ESL Cell Programs and ESL Support Programs
GFC	Global Financial Crisis
IEC	Intensive English Centre
IGA	Intergovernmental Agreement on Federal Relations
MODL	Commonwealth Government Migrant Occupation in Demand List
NEA	National Education Agreement
PAWG	Productivity Agenda Working Group
Plan	Forward Work Plan
SPP	Specific Purpose Payment
SVP	School Volunteer Program
Table	DET Enrolment Policy Table
TESOL	Teaching English to Speakers of Other Languages
TVHU	Temporary Visa Holders Unit

GLOSSARY

Deegan Report	<i>Visa Subclass 457 Integrity Review: Final Report.</i>
Inclusive Schools Review	<i>Building Inclusive Schools Pathways to the Future: A Report of the Review of Educational Services for Students with Disabilities in Government Schools.</i>
Primary visa holders	The workers who fill the nominated employment position.
Secondary visa holders	The spouse and family members who may accompany primary visa holders to Australia (where the sponsor has agreed to the arrangement).
Subclass 457 Visa	The most common program for employers to sponsor overseas workers to work in Australia on a temporary basis.

EXECUTIVE SUMMARY

This Report inquires into concerns that surfaced in late 2008 about the inadequate support for Western Australian school children of Subclass 457 visa holders with English as a second language (ESL 457 students). As of February 2009 there were 1,154 out of a total of nearly 2,500 children of Subclass 457 visa holders who were unable to access English as Second Language (ESL) programs in Western Australian schools on a 'spare capacity' basis, notwithstanding that their English skills were minimal or none. The Education and Health Standing Committee commenced a study into the issue and agreed to the following terms of reference, which were communicated to the Legislative Assembly on 11 November 2009. The Committee inquired into:

- (1) The level and type of educational support given to children of Subclass 457 visa holders.
- (2) How funding for school children who have English as a Second Language (ESL) can effect a child's social and educational development.

Chapter One outlines the background to the problem which several Members of Parliament, including the Premier, Hon Colin Barnett, acknowledged needed an inquiry by a body such as this Committee, or the Department of Education (DET). The Minister advised the Committee of DET's projections for future numbers of ESL 457 students in WA schools. These are contained in the table below.

Table ES1- Projections for ESL 457 students likely to be enrolled in government schools

Year Level	Current as at 17 June 2009	2010	2011	2012
Kindergarten	143	130*	120*	110*
Pre-primary	203	143	130	120
Year 1	233	203	143	130
Year 2	250	233	203	143
Year 3	263	250	233	203
Year 4	227	263	250	233
Year 5	205	227	263	250
Year 6	222	205	227	263
Year 7	109	222	205	227
Year 8	119	109	222	205
Year 9	117	119	109	222

Year 10	131	117	119	109
Year 11	190	131	117	119
Year 12	79	190	131	117
TOTAL	2,491	2,412	2,352	2,341

Given that there were 1,154 ESL 457 students who were unable to access ESL programs offered by DET, this means that more than 45% of ESL 457 students are not enrolled in an ESL program. The primary reason for their exclusion was insufficient funding and the ineligibility of ESL 457 students to access them.

The Department of Education and Training (DET) is conducting a review into ESL education in Western Australia, the establishment of which is detailed in Chapter Two. Chapter Three outlines the concerns raised during this Inquiry that led to the DET review and the scope of the recommendations contained in this report by the Committee.

Chapter Four provides information on the Subclass 457 visa category, both nationally and for Western Australia. Under this program established in 1996, a migrant worker with a particular prescribed skill can reside in Australia for anywhere between three months up to four years and are able to apply for permanent residency after a prescribed period. In 2008-09, 101,280 Subclass 457 visas were granted across Australia. This figure represents an 8% reduction on the previous year. Western Australia received 22,950 (22.7%) of these workers, comprising 10,690 primary and 12,270 secondary applicants- a fall of 9.5% compared to the previous year. During 2008-09, 39,170 Subclass 457 visa holders nationally were granted permanent residence. This was an increase of 57% in the number of permanent residence visas granted to Subclass 457 visa holders in 2007-08.

This chapter also summarises the funding for ESL programs in WA. The Committee found it difficult to ascertain State funds directed towards these programs. The Commonwealth's funds for 2009 were rolled into a \$7,220,928 Specific Purpose Payment (SPP) under the National Education Agreement (NEA) established with the States. Additionally, in April 2009 the Commonwealth responded to criticisms about insufficient support for ESL programs directed at ESL 457 students in Western Australia, and provided additional funding for ESL program resources through the Literacy and Numeracy Program. Amounts of \$5,000 to \$12,000 were disbursed to schools with significant numbers of ESL 457 students. Sixty-five schools received \$422,000 in additional funds for ESL programs in both metropolitan and regional education districts.

The range of ESL programs offered by DET are summarised in Chapter Five. Evidence was provided for the Fremantle Education District (FED) where there are 81 ESL Specialist Teachers employed in both primary and secondary schools to support programs for 408 students and a full-time primary and a part-time secondary ESL Visiting Teacher based at the District Office to support schools with ESL students. Support for students is also provided by five Intensive English Centres (IECs). The Applecross Cell of the FED (comprising of Applecross Primary, Ardross

Primary and Mount Pleasant Primary schools) currently caters for 53 ESL students with eligible visas from a total of 136 ESL students in these schools. Of the non-funded students, there are 42 in Kindergarten and Pre-primary and another 41 in primary school who require ESL support. Attempts are made by school staff to cater for such students where there is capacity to do so.

Under DET's Enrolment Policy, ESL 457 students are entitled to:

- enrol at local public schools;
- access IECs if such Centres have **spare capacity** [emphasis added]; and
- access ESL Support in mainstream classes, if there is **spare capacity** [emphasis added].

Therefore, the provision of specialist ESL support to ESL 457 students is dependent on the 'spare capacity' of programs at government schools. The Committee was told that the current spare capacity is very limited.

Chapter Six explores a proposal to assist the provision of ESL services for ESL 457 students through the development of suitably trained volunteers to assist school teaching staff. The Committee received anecdotal information that many Western Australians have already volunteered their time to provide assistance to teachers for ESL programs, only to be turned away by government schools. DET already has a Community Engagement Program that assists and supports districts and schools in their planning and implementation of programs. Other DET initiatives, such as the excellent School Volunteer Program (SVP), could be used as a model on which volunteers could provide ESL support to teachers.

Chapter Seven summarises the approach to ESL programs for ESL 457 students in other Australian jurisdictions. Most of these follow the approach taken in Western Australian where no additional fees are charged for ESL programs for parents on temporary visas. However, both the NSW and ACT governments levy a means-tested fee. NSW charge \$4,500 for a student in years K-6 while the ACT charges \$9,000.

This report concludes with Chapter Eight which presents information on an unexpected issue that arose during the hearing for this report regarding ESL 457 student eligibility to access the *Schools Plus* program. These funds could assist these students with their language abilities as the program provides educational support and suitable school infrastructure to integrate students within the mainstream school system. However, the *Schools Plus* program suffers from an extraordinarily complex application process which assesses the eligibility of students within eight Indicated Groups. These criteria outline the physical or mental attributes to be met for a student to fall within the scope of eligibility, and presently emphasise medical diagnoses. The Committee recommends that DET initiate a review of the current eligibility criteria for *Schools Plus*, and the use of Indicated Groups, with a view of adopting a purely functional assessment approach focussing on educational needs.

FINDINGS

Page 5

Finding 1

The Committee finds that the Department of Education and Training is currently reviewing the provision of ESL education in Western Australia.

Page 6

Finding 2

The Committee finds that there is a funding shortage in the Department of Education and Training to adequately service ESL Programs, particularly for ESL 457 students.

Page 8

Finding 3

The Committee finds that the Commonwealth's new formula for providing funding on the basis of full-time equivalent student enrolments does not take account of the costs relating to ESL programs for ESL 457 students, where jurisdictions such as Western Australia, have a higher proportion of ESL students than others.

Page 8

Finding 4

The Committee finds that the funding of ESL programs for ESL 457 students is insufficient. Providing ESL programs to ESL 457 students on the basis of 'spare capacity' is unacceptable. Further, it is also contrary to Western Australia's obligations under the NEA.

Page 8

Finding 5

The Committee finds that non-ESL students and all other students are also disadvantaged in the mainstream classroom by the diversion of attention and resources to ESL 457 students.

Page 9

Finding 6

The Committee finds that mainstream teachers lack the confidence to provide education to ESL 457 students, particularly when these students may speak little or no English.

Page 14

Finding 7

The Committee finds that prior to January 2009, the Commonwealth provided funding to the States and Territories for English as a Second Language programs for new arrivals through the Commonwealth New Arrivals Program.

Page 15

Finding 8

The Committee finds that Department of Education, Employment and Workplace Relations (DEEWR) provided ESL program funding to the States and Territories through the Recurrent Grants Program, Literacy and Numeracy Special Learning Needs Program and ESL country areas funding.

Page 16

Finding 9

The Committee could not ascertain the amount of funding provided by the State Government for ESL programs prior to 1 January 2009

Page 19

Finding 10

The Committee finds that as from 1 January 2009, the Western Australian government has assumed responsibility for the allocation of funding provided under the NEA Specific Purpose Payment to ESL programs for ESL students, including 457 students

Page 20

Finding 11

The Committee finds that to ascertain the government schools component of the NEA Specific Purpose Payment, the relevant population is each State's and Territory's share of full-time equivalent student enrolments in government schools.

Page 21

Finding 12

The Committee finds that in early 2009 the Department of Education and Training received additional funds to purchase resources for ESL programs.

Page 21

Finding 13

The Committee has not been able to ascertain the amount of funding provided by the State for ESL programs from 1 January 2009.

Page 24

Finding 14

The Committee finds that eligibility to attend Intensive English Centres is currently limited to Stage One students who are permanent residents. As holders of temporary visas, ESL 457 students are therefore ineligible to attend IECs, notwithstanding their educational needs.

Page 26

Finding 15

The Committee finds that there are significant numbers of ESL 457 students in Western Australia who are not accessing ESL programs, in part because the Department of Education and Training is inadequately funded to provide such programs to ESL 457 students.

Page 28

Finding 16

The Committee finds that the provision of specialist ESL education to ESL 457 students is dependent on the 'spare capacity' of government schools.

Page 31

Finding 17

The Committee finds that, while external community members do not possess the specialist ESL skills of trained educators, they remain a potential resource that may provide particular benefits in the classroom.

Page 34

Finding 18

The Committee finds that if the Department of Education and Training obtained compulsory contributions of \$4,500 per ESL 457 student (a level used in New South Wales), then it would receive an additional maximum income of \$20,079,000 for the 4,462 ESL 457 students enrolled in 2009. This amount could be less if parents were mean tested, as in NSW.

Page 42

Finding 19

The Committee finds that in 2004, the Department of Education and Training undertook a comprehensive review of *Schools Plus* in which several recommendations were made. Included in those recommendations was the suggestion that there be a move away from educational provision based on a medical diagnosis towards provision based on educational needs.

Page 43

Finding 20

The use of Indicated Groups may inadvertently exclude those students with disabilities who otherwise require significant, and often, ongoing teaching and learning adjustments. The current Indicated Groups make it difficult for ESL 457 students to be provided support under the *Schools Plus* program.

Page 44

Finding 21

The Committee finds that it is essential that there is rigour in the application process for *Schools Plus*. However, the existing evidence requirements and application process may take an extended time and utilise considerable staff resources.

Page 45

Finding 22

The Committee finds that there is little parity between the States in relation to how they assess children with a disability via measures such as Indicated Groups.

RECOMMENDATIONS

Page 5

Recommendation 1

The Committee recommends that the Minister of Education make available to the Parliament the Department of Education and Training (DET) report on its review of ESL education in Western Australia and the response of the Minister and DET to the review's recommendations.

Page 6

Recommendation 2

The Committee recommends that the Minister for Education establish an adequate funding model that provides for the provision of English as a Second Language (ESL) managers, ESL coordinators, ESL teachers, ESL support staff, infrastructure and resources in Western Australian schools.

Page 6

Recommendation 3

The ESL funding model used in Western Australia should provide ESL education for all students who need it, including ESL 457 students.

Page 8

Recommendation 4

The Committee recommends that the Minister for Education ascertain whether the Commonwealth's funding formula under NEA adequately provides resources to Western Australia to provide ESL Programs to ESL 457 students.

Page 8

Recommendation 5

The Committee recommends that the Department of Education and Training review the amount of funds received from the State Treasury for 2009 and direct a proportion of monies received to the provision of ESL programs to ESL 457 students.

Page 9

Recommendation 6

The Committee recommends that the Department of Education and Training review its funding allocation to ascertain the amount of monies dedicated to ESL programs for ESL 457 students in 2009, 2010 and 2011; and report to Parliament on the amounts allocated.

Page 9

Recommendation 7

The Committee recommends that the Department of Education and Training review the current provision of ESL education in Western Australia to ascertain whether mainstream teachers can be better equipped to facilitate the education of ESL 457 students.

Recommendation 8

The Committee recommends that to assist the Minister for Education with her investigation and reporting on the issue of ESL education for ESL 457 students, that the Department of Education and Training provide the Minister information as to:

- a. the total amount of Commonwealth funding provided to public schools through New Arrivals Program in the years 2007, 2008 and 2009;**
- b. the allocation of the funding toward:
 - i. pre-primary ESL programs.**
 - ii. primary ESL programs.**
 - iii. secondary ESL programs.****
- c. the funding formulae used for such programs, where appropriate; and**
- d. restrictions placed on the use of that funding.**

Recommendation 9

The Committee recommends that, to assist the Minister for Education with her investigation and reporting on the issue of ESL education for ESL 457 students, the Department of Education and Training provide the Minister information as to:

- a. the total amount of Commonwealth funding provided to public schools through the Recurrent Grants Program, Literacy and Numeracy Special Learning Needs Program and ESL country areas funding in the years 2007, 2008 and 2009;**
- b. the allocation of the funding toward:
 - i. pre-primary ESL programs.**
 - ii. primary ESL programs.**
 - iii. secondary ESL programs.****
- c. the funding formulae used for such programs, where appropriate; and**
- d. restrictions placed on the use of that funding.**

Recommendation 10

The Committee recommends that, to assist the Minister for Education with her investigation and reporting on the issue of ESL education for ESL 457 students, the Department of Education and Training provide the Minister information as to:

- a. the total amount of State funding provided to public schools, and the programs, or funding mechanism, through which such funding was provided in 2007, 2008 and 2009 for:**
 - i. pre-primary ESL programs.**
 - ii. primary ESL programs.**
 - iii. secondary ESL programs.**
- b. the funding formulae used for such programs, where appropriate; and**
- c. any restrictions placed on the use of that funding.**

Page 19

Recommendation 11

The Committee recommends that the Minister for Education undertake a review of the current funding arrangements for ESL programs in Western Australia, with particular reference to the funding of those for ESL 457 students. To assist the Minister with such a review, the Committee recommends that the Department of Education and Training provide the Minister information as to:

- a. the total amount of Commonwealth funding provided under the NEA Specific Purpose Payment for 2009 to public schools, and to be provided in 2010;
- b. the allocation of the funding toward:
 - i. pre-primary ESL programs.
 - ii. primary ESL programs.
 - iii. secondary ESL programs.
- c. the funding formulae used for such programs, where appropriate; and
- d. any restrictions placed on the use of that funding and, where evident, the nature of such restrictions.

Page 20

Recommendation 12

The Committee recommends that the Minister for Education advise the Commonwealth that the existing formula used to determine NEA funding does not adequately cater for the provision of specialist education such as ESL programs for Subclass 457 students.

Page 21

Recommendation 13

The Committee recommends that, to assist the Minister for Education with her investigation and reporting on the issue of ESL education for ESL 457 students, the Department of Education and Training (DET) provide the Minister with information as to the:

- a. total amount of additional funding that the DET received for public schools;
- b. the source of such funding;
- c. allocation of such funding by the DET, in particular, the ESL programs and schools that benefited from the additional funding; and
- d. any restrictions placed on the expenditure of such funding.

Page 22

Recommendation 14

The Committee recommends that, to assist the Minister for Education with her investigation and reporting on the issue of ESL education for ESL 457 students, the Department of Education and Training provide the Minister information as to the:

- a. total amount of State funding (not sourced from the Commonwealth) and the programs, or funding mechanism, through which such funding was provided to public schools in 2007, 2008 and 2009 for:
 - i. pre-primary ESL programs.
 - ii. primary ESL programs.
 - iii. secondary ESL programs.
- b. funding formulae used for such programs, where appropriate; and
- c. any restrictions placed on the use of that funding.

Page 24

Recommendation 15

The Committee recommends that the Department of Education and Training revise the current eligibility criteria for enrolment in the different types of ESL programs, in light of its obligations under the National Education Agreement as the Committee finds that ESL 457 students are eligible to attend Intensive English Centres.

Page 27

Recommendation 16

The Committee recommends that:

- the Minister for Education conducts a review at a department, district and local level to determine the number of ESL students within the State, with particular reference to the number of ESL 457 students.
- the Minister provide to Parliament details concerning the per student cost of providing the different types of ESL programs to ESL 457 students.
- the Minister provide to Parliament information about the amount of funding dedicated by the Department of Education and Training to providing ESL programs for ESL 457 students in 2009, 2010 and 2011.

Page 28

Recommendation 17

The Committee recommends that the Department of Education and Training change the access criteria for ESL programs so that access to them is granted in accordance with the educational needs of the student, rather than a visa category.

Page 31

Recommendation 18

The Committee recommends that the Department of Education and Training investigate establishing a volunteer program to assist with the delivery of ESL education in those schools with high concentrations of non to minimal English speaking students.

Page 34

Recommendation 19

The Committee recommends that the Department of Education and Training consider implementing a means-tested cost recovery program to obtain a payment of fees by 457 visa holders for ESL support in schools.

Page 42

Recommendation 20

The Committee recommends that the Minister for Education report to the Parliament on the implementation, by the Department of Education and Training, of recommendations proposed in the *Inclusive Schools Review*.

Page 43

Recommendation 21

The Committee recommends that the Department of Education and Training initiate a review of the current eligibility criteria for *Schools Plus* and the use of Indicated Groups with a view to adopting a purely functional assessment approach focusing on educational needs.

Page 44

Recommendation 22

The Committee recommends that the Department of Education and Training review its current application process for *Schools Plus*, with a view of simplifying the process to decrease the amount of time and resources required to complete funding applications.

Recommendation 23

The Committee recommends that the Minister for Education negotiate with her counterparts in other jurisdictions as to what steps can be implemented to ensure that there is a greater level of parity between the States and Territories concerning eligibility criteria for financial support and resourcing for programs similar to *Schools Plus*.

MINISTERIAL RESPONSE

In accordance with Standing Order 277(1) of the Standing Orders of the Legislative Assembly, the Committee directs that the Minister for Education report to the Assembly as to the action, if any, proposed to be taken by the Government with respect to the recommendations of the Committee.

CHAPTER 1 INTRODUCTION

1.1 Background to problem

Kofi Annan, the United Nations Director General, emphasised that:

[E]ducation is a human right with immense power to transform. On its foundation rest the cornerstones of freedom, democracy and sustainable human development.¹

While education may have the immense power to transform, it goes without saying that it becomes ineffectual if learners are unable to understand the language in which it is proffered. As of June 2009 there were only 1,154 out of a total of 2,491 children of Subclass 457 visa holders who were able to access English as Second Language (ESL) programs in Western Australian schools on a 'spare capacity' basis, notwithstanding that their English skills were minimal or none.² In a similar fashion, many children with a disability are missing out on ESL programs because they do not meet the strict criteria adopted for the *Schools Plus* funding program. This report summarises the problems for both cohorts of children, but does not address similar problems that might arise in the Vocational Education and Training (VET) sector.

The problem concerning the inadequate support for school children of Subclass 457 visa holders with English as a second language (ESL 457 students) began to surface in Western Australia in late-2008. Parents and teachers contacted Members of Parliament, including the EHSC Chairman, about the growing problem of ESL 457 students with minimal or no English skills receiving support in the mainstream classroom. The ESL 457 students did not attract the additional educational support that the Department of Education and Training (DET) provided to immigrants on permanent visas or humanitarian refugees.

The problem is not likely to resolve itself. Western Australia will continue to receive ESL 457 students into the public school system. The number of Subclass 457 visas granted by the Commonwealth over the last thirteen years has dramatically increased. Statistics from the *Deegan Report* show that in the years 2007 to 2008 the Commonwealth granted over 100,000 Subclass 457 visas. A large percentage of those were granted to secondary visa holders, that is, the spouses and children of the primary visa holder.³

The Minister for Education advised the Committee in July 2009 that "parents remaining in Australia for the term of their 457 Visa will have younger children at home who will be enrolling in Kindergarten and Pre-primary programs and will have a home language other than English."⁴

¹ Annan, K.A., 'Foreword', in Bellamy, C., *The State of the World's Children*, UNICEF, Geneva, 1999, p4.

² Hon. Dr Elizabeth Constable, Minister for Education, Letter received 6 July 2009.

³ Deegan Report—see Department of Immigration and Citizenship, Visa Subclass 457 Integrity Review Final Report, (prepared by Deegan, B.), 2008, p21. Available at: www.immi.gov.au/skilled/pdf/457-integrity-review.pdf. Accessed on 24 August 2009.

⁴ Hon. Dr Elizabeth Constable, Minister for Education, Letter received 6 July 2009.

The Minister provided the following projections for ESL 457 students likely to be enrolled in government schools between 2010-12 based on information received from the Department of Immigration and Citizenship.

Table 1.1- Projections for ESL 457 students likely to be enrolled in government schools

Year Level	Current as at 17 June 2009	2010	2011	2012
Kindergarten	143	130*	120*	110*
Pre-primary	203	143	130	120
Year 1	233	203	143	130
Year 2	250	233	203	143
Year 3	263	250	233	203
Year 4	227	263	250	233
Year 5	205	227	263	250
Year 6	222	205	227	263
Year 7	109	222	205	227
Year 8	119	109	222	205
Year 9	117	119	109	222
Year 10	131	117	119	109
Year 11	190	131	117	119
Year 12	79	190	131	117
TOTAL	2,491	2,412	2,352	2,341

The Education Health Standing Committee heard evidence that these ESL 457 students encounter unique learning challenges.⁵ Unlike the primary visa holder, many ESL 457 students have a poor command of the English language.

It is expected that ESL students with poor command of the English language will start to function in the playground socially within three to four months. By two to three years such ESL students will start to 'catch up' academically with their English speaking peers. Nevertheless, it may take

⁵ Ms Moira Long, ESL Teacher, Applecross Primary School, *Transcript of Evidence*, 21 August 2009, p10.

seven years for an ESL student to completely assimilate English language skills. Therefore, continuing access to ESL programs is vital if ESL 457 students are to engage in academic life, and Western Australia is to meet the National Education Agreement (NEA) outcomes as agreed with the Commonwealth.⁶

As noted above, Western Australia has committed itself to the achievement of educational outcomes as outlined in the NEA. The NEA— an agreement between the States, Territories and the Commonwealth— details the financial arrangements between the parties and outlines educational objectives, outcomes, and Council of Australian Governments (COAG) targets.

NEA outcomes include:

- all children are engaged in and benefiting from schooling;
- schooling promotes social inclusion and reduces the educational disadvantage of children, especially Indigenous children (underlining our emphasis);
- young people are meeting basic literacy and numeracy standards, and overall levels of literacy and numeracy achievement are improving;
- Australian students excel by international standards; and
- young people make a successful transition from school to work and further study.

To achieve the NEA outcomes COAG has acknowledged that education reform is required, which includes supporting students with additional needs. Migrants and refugees from non-English speaking backgrounds fall within the ambit of students with additional needs.

While the Commonwealth, States and Territories have committed themselves to the achievement of outcomes outlined in the NEA, it is also pertinent to note that Australia, as a signatory to the International Labour Organisation Conventions, is obliged to ensure that education is accessible and affordable for the children of migrant workers. As cited in the *Deegan Report* by the Federation of Ethnic Communities' Councils of Australia:

[A]t the very minimum health and education are fundamental rights and as such subsidised health benefits (offered through Medicare) and education resources should be made available to Subclass 457 visa holders and their families.⁷

Several Members of Parliament, including the Premier, Hon Colin Barnett, acknowledged the need for an inquiry by the EHSC, or by the Department of Education (DET), into the issue in Western Australia.⁸ It is anticipated that such an inquiry would consider, among other matters:

⁶ Council of Australian Governments, *National Education Agreement*, 2009, p4. Available at: www.coag.gov.au/intergov_agreements/federal_financial_relations/index.cfm . Accessed on 24 August 2009.

⁷ Deegan Report—see Department of Immigration and Citizenship, *Visa Subclass 457 Integrity Review Final Report*, (prepared by Deegan, B.), 2008, p90. Available at: www.immi.gov.au/skilled/pdf/457-integrity-review.pdf. Accessed on 24 August 2009.

- the number of children with English as a second language attending government schools;
- the number of children attending ESL programs at government schools;
- the number of ESL 457 students attending government schools;
- the number of ESL 457 students attending ESL programs at government schools;
- the source, and amount of funding for ESL programs;
- the source, and amount of funding for ESL programs for ESL 457 students; and
- whether additional financial support might be required to assist the children of Subclass 457 visa holders with their unique learning needs.

The purpose of this Report is to provide a brief overview of the background and current issues relating to the provision of ESL programs to ESL students in Western Australia, with particular reference to ESL 457 students. Further, the Report provides findings and recommendations for the consideration of the Minister for Education.

⁸ Hon Colin Barnett, Premier, WA, Legislative Assembly, *Parliamentary Debates* (Hansard), 4 December 2008, p948.

CHAPTER 2 REVIEW OF ESL EDUCATION IN WESTERN AUSTRALIA

2.1 Department of Education and Training review

The Committee recognises that this Report is presented at the same time that the Department of Education and Training (DET) is conducting a review into ESL education in Western Australia. DET initiated the review of ESL education in response to growing numbers of humanitarian entrants and ESL 457 students entering the government school system. DET identified that there was a significant shortfall between the funding of ESL Programs for these students and the actual cost of such education.

Finding 1

The Committee finds that the Department of Education and Training is currently reviewing the provision of ESL education in Western Australia.

Recommendation 1

The Committee recommends that the Minister of Education make available to the Parliament the Department of Education and Training (DET) report on its review of ESL education in Western Australia and the response of the Minister and DET to the review's recommendations.

Humanitarian visa students have reportedly had a significant impact on the resourcing of ESL programs in Western Australia. While access to an Intensive English Centre (IEC) for most non-English students was initially for one year, the period has been extended for many humanitarian visa students because of their limited schooling backgrounds. Therefore, many humanitarian visa students stay in an IEC for two years, decreasing further the capacity for such programs to cater for the ESL 457 students. An explanation of the function of an IEC is provided in Chapter 5.

Presently the allocation of funding to schools from the State is determined on the ESL needs and visa category of the student. Notably, ESL 457 students are generally not eligible under DET's Enrolment Policy to attend ESL programs, and are catered for only where there is 'spare' capacity to do so. Mr Neil Darby, Director Schools, DET, told the Committee "Given the large number of

students who are ESL, that capacity is seldom spare.”⁹ Chapter 5 provides further detail concerning the eligibility of ESL 457 students to access ESL programs.

As part of its own review, DET is scoping other States and Territories to ascertain and consider alternative models for funding ESL education. It is anticipated that the review will be finalised within the next two months, and that findings agreed to by the Government will be implemented in 2010. While the DET is seeking new ways to improve ESL education in Western Australia, it is evident that schools are seeking urgent financial relief.

Finding 2

The Committee finds that there is a funding shortage in the Department of Education and Training to adequately service ESL Programs, particularly for ESL 457 students.

Recommendation 2

The Committee recommends that the Minister for Education establish an adequate funding model that provides for the provision of English as a Second Language (ESL) managers, ESL coordinators, ESL teachers, ESL support staff, infrastructure and resources in Western Australian schools.

Recommendation 3

The ESL funding model used in Western Australia should provide ESL education for all students who need it, including ESL 457 students.

⁹ Mr Neil Darby, Director, Schools, Department of Education and Training Western Australia, *Transcript of Evidence*, 27 August 2009, p3.

CHAPTER 3 CONCERNS ABOUT THE CURRENT SYSTEM FOR 457 STUDENTS

3.1 Summary of concerns

This Report does not exhaustively canvas all of the concerns pertaining to the issue of ESL education for ESL 457 students in Western Australia. However, at a hearing with staff from the Department of Education and Training on 27 August 2009 the Committee heard that:

- ESL 457 students are not eligible under the Department of Education and Training's (DET) Enrolment Policy to access IECs (schools specialised in ESL education), unless there is spare capacity;
- ESL 457 students are not eligible under the DET's Enrolment Policy to access Cells (support classes provided by an ESL teacher across several schools), unless there is spare capacity;
- the capacity for ESL 457 students to attend the abovementioned ESL Programs is extremely limited;
- Subclass 457 visas are considered 'temporary' visas by the Commonwealth. However, temporary residents on such visas may reside in Western Australia for several years and may apply and receive permanent residency. Therefore, ESL education for such students is often required for long periods;
- ESL students in many instances require ongoing educational support and assistance for up to seven years to assist with the acquisition of English skills. Therefore, funding allocated for each ESL student must accommodate the educational need of ongoing ESL education for a significant period;
- some existing ESL Cells are overcrowded, as ESL teachers try to accommodate additional 'unfunded' students in their program. This results in students not receiving the time and support necessary to acquire English skills, as there are simply too many students within the Cell;
- the provision of staffing resources in the mainstream classroom is inequitable. Teachers in the mainstream classroom divert time, resources and attention to non-English/minimal English speaking 457 students who otherwise are not supported by the education system;
- mainstream teachers, without specialist ESL education skills, report feeling inadequate as they grapple to cope with teaching ESL 457 students;
- the Commonwealth's formula for providing funding on the basis of full-time equivalent student enrolments may not take account of the costs relating to ESL education, particularly for ESL 457 students; and

- funding provided for ESL programs in Western Australia is insufficient to cover the costs of providing ESL programs to ESL 457 students.

The following findings and recommendations arise from these concerns.

Finding 3

The Committee finds that the Commonwealth's new formula for providing funding on the basis of full-time equivalent student enrolments does not take account of the costs relating to ESL programs for ESL 457 students, where jurisdictions such as Western Australia, have a higher proportion of ESL students than others.

Recommendation 4

The Committee recommends that the Minister for Education ascertain whether the Commonwealth's funding formula under NEA adequately provides resources to Western Australia to provide ESL Programs to ESL 457 students.

Finding 4

The Committee finds that the funding of ESL programs for ESL 457 students is insufficient. Providing ESL programs to ESL 457 students on the basis of 'spare capacity' is unacceptable. Further, it is also contrary to Western Australia's obligations under the NEA.

Recommendation 5

The Committee recommends that the Department of Education and Training review the amount of funds received from the State Treasury for 2009 and direct a proportion of monies received to the provision of ESL programs to ESL 457 students.

Finding 5

The Committee finds that non-ESL students and all other students are also disadvantaged in the mainstream classroom by the diversion of attention and resources to ESL 457 students.

Recommendation 6

The Committee recommends that the Department of Education and Training review its funding allocation to ascertain the amount of monies dedicated to ESL programs for ESL 457 students in 2009, 2010 and 2011; and report to Parliament on the amounts allocated.

Finding 6

The Committee finds that mainstream teachers lack the confidence to provide education to ESL 457 students, particularly when these students may speak little or no English.

Recommendation 7

The Committee recommends that the Department of Education and Training review the current provision of ESL education in Western Australia to ascertain whether mainstream teachers can be better equipped to facilitate the education of ESL 457 students.

CHAPTER 4 BACKGROUND TO 457 VISAS

4.1 Introduction

In response to a shortage of skilled labour across Australia, the former Commonwealth (Howard) Government established on 1 August 1996 a temporary business (long stay) visa program, referred to as the Subclass 457 Visa. Under this program, a migrant worker with a particular prescribed skill can reside in Australia for anywhere between three months up to four years.¹⁰ Further, Subclass 457 visa holders are able to apply for permanent residency after a prescribed period.

The Subclass 457 program has not been without controversy. The plight of many Subclass 457 visa holders received national attention between 2005-2007 due to the exploitation of some of them as a consequence of their temporary status and limited English skills.¹¹ In response to concerns raised about the exploitation of Subclass 457 visa holders, the current Commonwealth (Rudd) Government's Minister for Immigration and Citizenship announced the establishment of an integrity review process, the final report of which was released in October 2008.

The *Deegan Report* identified that:

*State and local government authorities have raised concerns during consultation that failure to provide adequate funding to support primary Subclass 457 visa holders and their families has strained available resources, particularly in **education** [emphasis added] and health care.¹²*

In particular, the *Deegan Report* noted that submissions received outlined concerns over the nature and extent of Commonwealth funding for English language tuition and support for non-English speakers in Australian schools.¹³ It identified that education arrangements were designed to manage permanent entrants rather than the increased numbers of temporary visa holders. Recently the attention of Parliament, government and media in Western Australia has turned to the 'burden' that ESL 457 students are placing on government schools.

¹⁰ Department of Immigration and Citizenship, 'Temporary Business (Long Stay) – Standard Business Sponsorship (Subclass 457)'. Available at: www.immi.gov.au/skilled/skilled-workers/sbs/. Accessed on 27 August 2009.

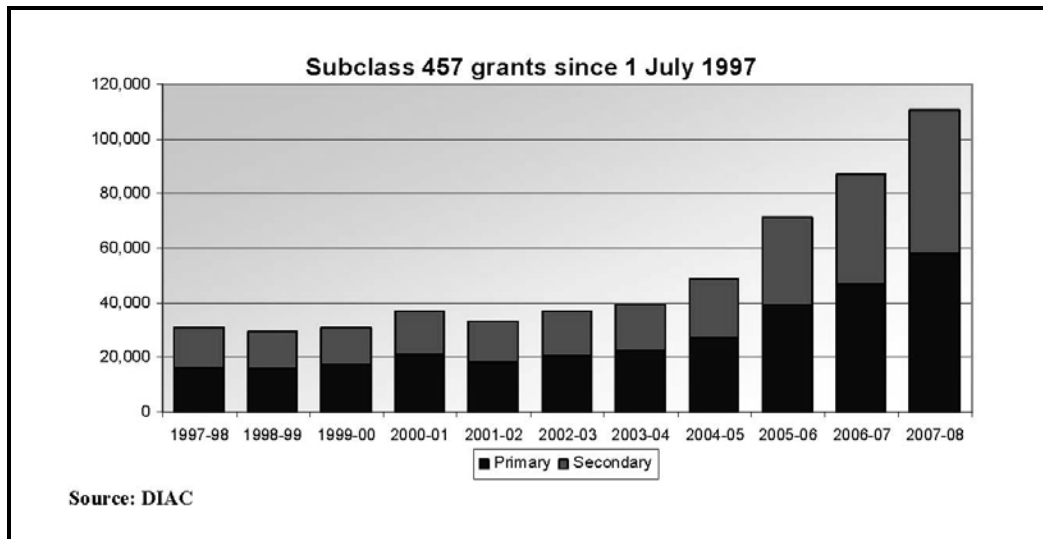
¹¹ Deegan Report—see Department of Immigration and Citizenship, Visa Subclass 457 Integrity Review Final Report, (prepared by Deegan, B.), 2008, p17. Available at: www.immi.gov.au/skilled/_pdf/457-integrity-review.pdf. Accessed on 24 August 2009.

¹² Deegan Report—see Department of Immigration and Citizenship, Visa Subclass 457 Integrity Review Final Report, (prepared by Deegan, B.), 2008, p90. Available at: www.immi.gov.au/skilled/_pdf/457-integrity-review.pdf. Accessed on 24 August 2009.

¹³ Deegan Report—see Department of Immigration and Citizenship, Visa Subclass 457 Integrity Review Final Report, (prepared by Deegan, B.), 2008, p90. Available at: www.immi.gov.au/skilled/_pdf/457-integrity-review.pdf. Accessed on 24 August 2009.

In 2008-09, 101,280 Subclass 457 visas were granted. This figure represents an 8% reduction on the previous year. This downward trend has been attributed to lower demands for skilled labour due to the Global Financial Crisis. Western Australia received 22,960 (22.7%) of these workers, comprising 10,690 primary and 12,270 secondary applicants.¹⁴ WA’s primary visa applications figure for 2008-09 represented a fall of 9.5% compared to the previous year.¹⁵

Figure 4-1 Subclass 457 visas (all jurisdictions): 1997-2008¹⁶



According to the *Deegan Report*, Subclass 457 visa holders regularly move from being temporary migrants to having permanent residence status, primarily on the basis of sponsorship by an Australian employer.¹⁷ During 2008-09, 39,170 Subclass 457 visa holders nationally were granted permanent residence. This was an increase of 57% in the number of permanent residence visas granted to people who last held a Subclass 457 visa compared to the 2007-08 year. Of the 39,170 people granted permanent residence during 2008-09, 7,810 lived in Western Australia at the time

¹⁴ Department of Immigration and Citizenship, ‘Annual Report 2008-09’, 2009, p39. Available at: www.immi.gov.au/about/reports/annual/2008-09/pdf/annual-report-2008-09-complete.pdf. Accessed on 6 November 2009.

¹⁵ Department of Immigration and Citizenship, ‘Subclass 457 Business (Long Stay) State/Territory Summary Report 2008-09’, 2009, pp3-4. Available at: www.immi.gov.au/media/statistics/pdf/457-stats-state-territory-june09.pdf. Accessed on 6 November 2009.

¹⁶ Deegan Report—see Department of Immigration and Citizenship, *Visa Subclass 457 Integrity Review Final Report*, (prepared by Deegan, B.), 2008, p21. Available at: www.immi.gov.au/skilled/pdf/457-integrity-review.pdf. Accessed on 6 November 2009.

¹⁷ Deegan Report—see Department of Immigration and Citizenship, *Visa Subclass 457 Integrity Review Final Report*, (prepared by Deegan, B.), 2008, p49. Available at: www.immi.gov.au/skilled/pdf/457-integrity-review.pdf. Accessed on 24 August 2009.

they applied to become residents.¹⁸ The last of the Subclass 457 visas granted in 2004-05 expired in June 2009. Of the 46,010 people granted this visa in 2004-05, 22,840 (almost 50%) have now been granted a permanent residence or provisional visa.¹⁹

While statistics from the Department of Immigration and Citizenship note a decline in the number of applications and grants of Subclass 457 visas for 2008-09²⁰, with the recent approval of the Gorgon project, the ongoing Pluto LNG project and expansion of business in other industry and resources growth areas (such as Austral Shipping), it is anticipated that the number of Subclass 457 students attending government schools in Western Australia will continue to increase.

4.2 Funding of ESL programs in government schools

For 2009, the Commonwealth provided Western Australia with \$7,220,928 for ESL programs.²¹ The Department of Education and Training (DET) used these funds to support eligible students to access ESL programs.

Before 1 January 2009

Before 1 January 2009, the Commonwealth provided ESL program funding to the States through a variety of funding mechanisms as outlined below.²²

ESL – New Arrivals Program

Through the ESL– New Arrivals Program (ESL-NA) the Commonwealth provided funding to the States and Territories to assist with the cost of delivering intensive English language tuition to eligible newly-arrived migrant primary and secondary school students. To obtain the additional funding under the ESL-NA, DET submitted an application to the Commonwealth.

In order to be eligible for ESL-NA, a student was required to, amongst other criteria, hold a particular type of visa. While humanitarian visas and most ‘permanent’ visas were eligible for

¹⁸ Ms Louise Rihova, Departmental Liaison Officer, Minister for Immigration and Citizenship, Electronic Mail, 9 November 2009, p1.

¹⁹ Department of Immigration and Citizenship, ‘Annual Report 2008-09’, 2009, pp71-73. Available at: www.immi.gov.au/about/reports/annual/2008-09/pdf/annual-report-2008-09-complete.pdf. Accessed on 6 November 2009.

²⁰ Department of Immigration and Citizenship, ‘*Temporary Business (Long Stay) – Standard Business Sponsorship (Subclass 457)*’. Available at: www.immi.gov.au/skilled/skilled-workers/sbs/. Accessed on 27 August 2009.

²¹ Mr Neil Darby, Director, Schools, Fremantle Education District Office, Department of Education and Training, *Transcript of Evidence*, 21 August 2009, p3.

²² Mr Greg Wells, Manager ESL, Department of Education, Employment and Workplace Relations, Telephone discussion, on 26 August 2009.

ESL-NA, the Subclass 457 visa did not fall with the prescribed criteria.²³ Therefore, Subclass 457 students were ineligible for the ESL-NA.

Under the ESL-NA funding arrangement the State received \$5,800 per eligible student (despite ESL education for a non-English speaking student costing in excess of \$10,000). This funding covered teacher, education assistant, psychologist and school support worker time.²⁴

Finding 7

The Committee finds that prior to January 2009, the Commonwealth provided funding to the States and Territories for English as a Second Language programs for new arrivals through the Commonwealth New Arrivals Program.

²³ DEEWR provided an extensive list of those visa subclasses eligible for ESL-NA. It should be noted that there **were** categories of temporary and provisional visas that fell within the scope of the ESL-NA, including, amongst others Business Owner, Senior Executive, Investor and Skilled – Regional Sponsored.

²⁴ Ms Natalie Tarr, Principal Consultant ESL/ESD, Department of Education and Training, *Transcript of Evidence*, 21 August 2009, p5.

Recommendation 8

The Committee recommends that to assist the Minister for Education with her investigation and reporting on the issue of ESL education for ESL 457 students, that the Department of Education and Training provide the Minister information as to:

- a. the total amount of Commonwealth funding provided to public schools through New Arrivals Program in the years 2007, 2008 and 2009;**
- b. the allocation of the funding toward:**
 - i. pre-primary ESL programs.**
 - ii. primary ESL programs.**
 - iii. secondary ESL programs.**
- c. the funding formulae used for such programs, where appropriate; and**
- d. restrictions placed on the use of that funding.**

Other Commonwealth funding mechanisms

The Department of Education, Employment and Workplace Relations (DEEWR) report that while funding under the ESL-NA was not provided for ESL 457 students under the ESL-NA, funding for ESL education was generally provided through a number of targeted funding mechanisms which included the:

- Recurrent Grants Program;
- Literacy and Numeracy Special Learning Needs Program; and
- ESL country areas funding.

It remains unclear whether ESL education was targeted specifically to ESL Subclass 457 visa holders under these programs.

Finding 8

The Committee finds that Department of Education, Employment and Workplace Relations (DEEWR) provided ESL program funding to the States and Territories through the Recurrent Grants Program, Literacy and Numeracy Special Learning Needs Program and ESL country areas funding.

Recommendation 9

The Committee recommends that, to assist the Minister for Education with her investigation and reporting on the issue of ESL education for ESL 457 students, the Department of Education and Training provide the Minister information as to:

- a. the total amount of Commonwealth funding provided to public schools through the Recurrent Grants Program, Literacy and Numeracy Special Learning Needs Program and ESL country areas funding in the years 2007, 2008 and 2009;
- b. the allocation of the funding toward:
 - i. pre-primary ESL programs.
 - ii. primary ESL programs.
 - iii. secondary ESL programs.
- c. the funding formulae used for such programs, where appropriate; and
- d. restrictions placed on the use of that funding.

Funding provided by the State Government

The Committee has not been able to ascertain the contribution of the State Government toward ESL Programs prior to 1 January 2009.

Finding 9

The Committee could not ascertain the amount of funding provided by the State Government for ESL programs prior to 1 January 2009

Recommendation 10

The Committee recommends that, to assist the Minister for Education with her investigation and reporting on the issue of ESL education for ESL 457 students, the Department of Education and Training provide the Minister information as to:

- a. the total amount of State funding provided to public schools, and the programs, or funding mechanism, through which such funding was provided in 2007, 2008 and 2009 for:**
 - i. pre-primary ESL programs.**
 - ii. primary ESL programs.**
 - iii. secondary ESL programs.**
- b. the funding formulae used for such programs, where appropriate; and**
- c. any restrictions placed on the use of that funding.**

After 1 January 2009

After 1 January 2009, the Commonwealth entered into an agreement with the States and Territories whereby the process of funding for education changed. Simply put, the mechanisms of funding outlined above were rolled into a Specific Purpose Payment (SPP) under the NEA.²⁵ Similar to the payments from Goods and Services Tax revenues, the Federal Treasury provides the SPP to its State counterpart. In 2009, the SPP for education was \$18 billion dollars.²⁶

National Education Agreement

The National Education Agreement (NEA) is funded under the Intergovernmental Agreement (IGA) on Federal Relations. The IGA provides an overarching framework for the Commonwealth's financial relations with the States and Territories. The aim of the IGA is to

²⁵ Council of Australian Governments, *National Education Agreement*, 2009. Available at: www.coag.gov.au/intergov_agreements/federal_financial_relations/index.cfm. Accessed on 24 August 2009.

²⁶ Council of Australian Governments, *Intergovernmental Agreement (IGA) on Federal Financial Relations*, 2009. Available at: www.coag.gov.au/intergov_agreements/federal_financial_relations/index.cfm. Accessed on 29 August 2009.

improve the quality and effectiveness of government services by reducing Commonwealth prescriptions on service delivery by the States.²⁷

The IGA includes several National Agreements, including the NEA. On the 29 November 2008, the Education Ministers of each State and Territory entered into the NEA with the Commonwealth.²⁸ The NEA consists of a statement of objectives and outcomes, including Council of Australian Governments (COAG) school targets.²⁹

The NEA states that it is the joint responsibility of the Commonwealth and the States and Territories to fund school education. The DEEWR observe that under the NEA, State and Territory governments are now responsible for managing their schools and prioritising education funding allocations (including ESL resources).³⁰ According to DEEWR, one of the benefits associated with the change of mechanism was the abolition of applications for additional ESL funding.³¹

Included in the NEA is the Forward Work Plan (the Plan). The Plan embodies key components for achieving the agreed COAG targets. One of the reforms included in the Plan is that of providing support to students with additional needs. The Plan expects all jurisdictions to “explore reforms and policy actions that best focus on ensuring that all students with additional needs have the support they require to engage in and benefit from schooling”. An additional need includes those students who are newly arrived to Australia with a non-English speaking background, including newly arrived migrants and refugees.³² The Plan doesn’t differentiate as to whether these students with additional needs have arrived on a Subclass 457 visa, or not.

DEEWR notes that the newly formed Productivity Agenda Working Group (PAWG) will initiate immediate work to explore reforms and policy actions that best focus on ensuring that all students with additional needs have the support they require to engage in and benefit from schooling. PAWG were reported to be currently considering the definition of ‘English as a Second Language Student’. The current approach to the definition avoids categorising students in accordance with

²⁷ Council of Australian Governments, *Intergovernmental Agreement (IGA) on Federal Financial Relations*, 2009. Available at: www.coag.gov.au/intergov_agreements/federal_financial_relations/index.cfm Accessed on 29 August 2009.

²⁸ Mr Greg Wells, Manager ESL, Department of Education, Employment and Workplace Relations, Telephone discussion, on 26 August 2009.

²⁹ Council of Australian Governments, *National Education Agreement*, 2009, p4. Available at: www.coag.gov.au/intergov_agreements/federal_financial_relations/index.cfm. Accessed on 24 August 2009.

³⁰ Department of Education, Employment and Workplace Relations, ‘*English as a Second Language – New Arrivals Program*’, 2009. Available at: www.deewr.gov.au/schooling/programs/englishasasecondlanguageNewArrivals. Accessed on 24 August 2009.

³¹ Mr Greg Wells, Manager ESL, Department of Education, Employment and Workplace Relations, Telephone discussion, on 26 August 2009.

³² Council of Australian Governments, *National Education Agreement*, 2009, ppB23-B24. Available at: www.coag.gov.au/intergov_agreements/federal_financial_relations/index.cfm. Accessed on 24 August 2009.

their visa type and looks more toward student learning needs.³³ The Committee considers this a positive move.

Finding 10

The Committee finds that as from 1 January 2009, the Western Australian government has assumed responsibility for the allocation of funding provided under the NEA Specific Purpose Payment to ESL programs for ESL students, including 457 students

Recommendation 11

The Committee recommends that the Minister for Education undertake a review of the current funding arrangements for ESL programs in Western Australia, with particular reference to the funding of those for ESL 457 students. To assist the Minister with such a review, the Committee recommends that the Department of Education and Training provide the Minister information as to:

- a. **the total amount of Commonwealth funding provided under the NEA Specific Purpose Payment for 2009 to public schools, and to be provided in 2010;**
- b. **the allocation of the funding toward:**
 - i. **pre-primary ESL programs.**
 - ii. **primary ESL programs.**
 - iii. **secondary ESL programs.**
- c. **the funding formulae used for such programs, where appropriate; and**
- d. **any restrictions placed on the use of that funding and, where evident, the nature of such restrictions.**

Prior to 1 January 2009, Commonwealth funding was provided directly to DET. However, now the DET negotiates with State Treasury to obtain funding for ESL programs. The amount of funding the Commonwealth allocates to a State or Territory is determined by reference to each State and Territory's share of full-time equivalent student enrolments in government schools. In

³³ Mr Greg Wells, Manager ESL, Department of Education, Employment and Workplace Relations, Telephone discussion, on 26 August 2009.

general terms, each State and Territory receives funding on a per capita basis.³⁴ It is unclear how the Commonwealth ascertains the amount of funding that will be allocated per full-time equivalent student.

Finding 11

The Committee finds that to ascertain the government schools component of the NEA Specific Purpose Payment, the relevant population is each State's and Territory's share of full-time equivalent student enrolments in government schools.

Recommendation 12

The Committee recommends that the Minister for Education advise the Commonwealth that the existing formula used to determine NEA funding does not adequately cater for the provision of specialist education such as ESL programs for Subclass 457 students.

While the Commonwealth's mechanism for funding was amended, the process applicable to ESL programs for Subclass 457 students appears to remain unchanged. Further clarification— as to whether the Commonwealth funding of \$7,220,928 received in 2009 and derived from ESL-NA funding— will assist the Minister to ensure that all aspects of funding arrangements for ESL education are considered when investigating and reporting on this matter.

Additional funding provided by the Commonwealth in 2009

Earlier this year, school staff, the State School Teachers' Union, and teachers and parents complained about insufficient support for ESL programs directed at ESL 457 students in Western Australia. In April 2009 the Commonwealth responded, providing Western Australia with additional funding for ESL program resources through the Literacy and Numeracy Program. Amounts of \$5,000 to \$12,000 were disbursed to schools with significant numbers of ESL 457 students. Sixty-five schools received \$422,000 in additional funds for ESL programs in both metropolitan and regional areas (see Appendix 2 for a listing of the schools and the additional funds). The additional funding was provided for purchasing resources, not 'teaching time'.³⁵

³⁴ Council of Australian Governments, 'Payment Arrangements Intergovernmental Agreement on Federal Financial Relations', pD-4, 2009. Available at: www.coag.gov.au/intergov_agreements/federal_financial_relations/index.cfm. Accessed on 24 August 2009.

³⁵ Mr Neil Darby, Director, Schools, Fremantle Education District Office, Department of Education and Training, *Transcript of Evidence*, 21 August 2009, p4.

Finding 12

The Committee finds that in early 2009 the Department of Education and Training received additional funds to purchase resources for ESL programs.

Recommendation 13

The Committee recommends that, to assist the Minister for Education with her investigation and reporting on the issue of ESL education for ESL 457 students, the Department of Education and Training (DET) provide the Minister with information as to the:

- a. total amount of additional funding that the DET received for public schools;
- b. the source of such funding;
- c. allocation of such funding by the DET, in particular, the ESL programs and schools that benefited from the additional funding; and
- d. any restrictions placed on the expenditure of such funding.

Funding by the State Government from 1 January 2009

The Committee has not been able to ascertain the contribution of the State government toward ESL programs from 1 January 2009, other than the funds provided by the Commonwealth. The Minister for Education advised the Committee that individual government schools determine how the fees they raise from parents, are distributed.³⁶ Parents of ESL 457 students do not pay any additional school fees.

Finding 13

The Committee has not been able to ascertain the amount of funding provided by the State for ESL programs from 1 January 2009.

³⁶ Hon. Dr Elizabeth Constable, Minister for Education, Letter received 6 July 2009.

Recommendation 14

The Committee recommends that, to assist the Minister for Education with her investigation and reporting on the issue of ESL education for ESL 457 students, the Department of Education and Training provide the Minister information as to the:

- a. total amount of State funding (not sourced from the Commonwealth) and the programs, or funding mechanism, through which such funding was provided to public schools in 2007, 2008 and 2009 for:**
 - i. pre-primary ESL programs.**
 - ii. primary ESL programs.**
 - iii. secondary ESL programs.**
- b. funding formulae used for such programs, where appropriate; and**
- c. any restrictions placed on the use of that funding.**

CHAPTER 5 ESL EDUCATION IN WESTERN AUSTRALIA

5.1 Western Australia's ESL programs

There are over 100 ESL programs across the metropolitan area.³⁷ Such programs include:

- Intensive English Centres (IECs);
- ESL Cell Programs (Cell); and
- ESL Support Programs.

In addition, Commonwealth funding is used to engage four district ESL consultants in the metropolitan area who provide ESL professional learning development for teachers.

Intensive English Centres

An IEC provides specialist intensive English language instruction for approximately four school terms. Generally, the IEC aims to prepare students for the mainstream curriculum.³⁸ Within Western Australia there are seven IECs at primary schools, four at secondary schools and two senior schooling IECs. Generally, IECs have a minimum of 100 students, 12 teachers, education assistants and a deputy principal.³⁹

Students that attend IECs are categorised as Stage One students. Stage One students are students who:

- have been in Australia less than a year and have enrolled within six months of arrival; and
- are entering their first year of compulsory schooling (this includes children who have entered pre-primary).⁴⁰

Stage One students, who are permanent residents, are eligible to enrol in full-time English language instruction at an IEC. IECs also offer a Limited Schooling Program for those students who have had less than three years of continuous education prior to arrival to Australia.⁴¹ Further

³⁷ Ms Natalie Tarr, Principal Consultant ESL/ESD, Department of Education and Training (DET), *Transcript of Evidence*, 21 August 2009, p6.

³⁸ Department of Education and Training, *Information for School Personnel 2006 – English as a Second Language (ESL) and English as a Second Dialect (ESD)*, DET, Perth, 2006, p6.

³⁹ Ms Natalie Tarr, Principal Consultant ESL/ESD, Department of Education and Training (DET), *Transcript of Evidence*, 21 August 2009, p6.

⁴⁰ Department of Education and Training, *Information for School Personnel 2006 – English as a Second Language (ESL) and English as a Second Dialect (ESD)*, DET, Perth, 2006, p5.

⁴¹ Department of Education and Training, *Information for School Personnel 2006 – English as a Second Language (ESL) and English as a Second Dialect (ESD)*, DET, Perth, 2006, p6.

information on the Limited Schooling Program would assist the Minister for Education in ensuring that all aspects of ESL Programs are taken into consideration when investigating and reporting on the issue of the provision of ESL education to ESL 457 students.

Finding 14

The Committee finds that eligibility to attend Intensive English Centres is currently limited to Stage One students who are permanent residents. As holders of temporary visas, ESL 457 students are therefore ineligible to attend IECs, notwithstanding their educational needs.

Recommendation 15

The Committee recommends that the Department of Education and Training revise the current eligibility criteria for enrolment in the different types of ESL programs, in light of its obligations under the National Education Agreement as the Committee finds that ESL 457 students are eligible to attend Intensive English Centres.

ESL support programs

Through the ESL support program, one or two teachers, depending on the need of the school, are appointed either in a primary school or a secondary school to support the students at that school. The ESL support programs are designed to meet the needs of Stage Two ESL students within a mainstream context. Stage Two ESL students have had no more than two years primary or three years secondary education in an Australian school. Those students attending a Limited Schooling Program at an IEC are entitled to extra support.⁴²

ESL Cell programs

The ESL Cell programs provide ESL support for Stage Two ESL students enrolled in larger schools, or two to three neighbouring schools. In Western Australia there are 27 Cell Programs.

Stage Three students have had more than two years primary or three years secondary education in an Australian school. While Stage Three students are ineligible for a staff allocation, they are often included in ESL programs.

For the abovementioned ESL programs, the teacher-to-student ratio is one full-time equivalent teacher to 30 eligible ESL students. However, DET is aware that some schools may not have

⁴² Department of Education and Training, *Information for School Personnel 2006 – English as a Second Language (ESL) and English as a Second Dialect (ESD)*, DET, Perth, 2006, pp5-6.

sufficient staff allocation to cater for the ESL needs of students, particularly in light of the influx of entrants on humanitarian visas.

Further information on the structure of Western Australia's ESL programs, including curriculum content, staffing requirements, available infrastructure and resources, will assist the Minister in ensuring all aspects of future programs are taken into consideration when investigating and reporting on the issue of ESL education for ESL 457 students.

(a) Support provided by Fremantle Education District

The following data has been provided by DET as an example of the support offered within one education district—Fremantle. There are nearly 90 ESL Specialist Teachers employed across the District in both primary and secondary schools. This number comprises 39 primary and 49 secondary ESL Specialist teachers, a full-time ESL/ESD Consultant, and a full-time primary and part-time secondary ESL Visiting Teacher based at Fremantle District Education Office to support schools with ESL students. Support for students is also provided by five IECs. Staffing and enrolment data for these centres is contained in Table 5.1 below.⁴³

Table 5.1- Language support at IECs in Fremantle Education District

IEC	Enrolments	Staff
Beaconsfield Primary School	90	17
Mandurah Senior High School/ North Mandurah Primary School	32	6
Melville Senior High School	103	21
North Lake Senior Campus	75	18
Parkwood Primary School	108	20
TOTAL	408	82

5.2 Western Australian ESL statistics

Data from the Department of Education and Training (DET) in Table 1.1 above indicates that there were 2,491 Subclass 457 students attending government schools in June 2009. In February 2009, there were 1,154 ESL 457 students who were unable to access ESL programs offered by DET, notwithstanding the great benefit these students would derive. The primary reason for such

⁴³ Mr Neil Darby, Director Schools, Fremantle Education District Office, Department of Education and Training (DET), Answer to Questions on Notice, received 21 September 2009, p2.

exclusion was attributed to insufficient funding and ineligibility of ESL 457 students to access these programs.⁴⁴

Finding 15

The Committee finds that there are significant numbers of ESL 457 students in Western Australia who are not accessing ESL programs, in part because the Department of Education and Training is inadequately funded to provide such programs to ESL 457 students.

For example, the Applecross Cell (comprising of Applecross Primary, Ardross Primary and Mount Pleasant Primary schools) currently caters, and is funded for, 53 ESL students with eligible visas from a total of 136 ESL students in these schools. Of the non-funded students, there are 42 in Kindergarten and Pre-primary and another 41 ESL 457 primary students who require ESL support but are not funded for ESL programs.⁴⁵ Consequently, attempts are made by school staff to cater for such students where there is capacity to do so. However, this additional capacity is limited across the Applecross Cell as there is only one full-time ESL Specialist Teacher in the Cell.⁴⁶

At Applecross Primary School, there are 39 ESL 457 students of which 13 require English as a second language support. Currently there are 40 students at Applecross Primary School receiving ESL support from the ESL Specialist Teacher, who is employed for one day a week across the three schools in the Applecross Cell.⁴⁷

⁴⁴ Ms Natalie Tarr, Principal Consultant ESL/ESD, Department of Education and Training (DET), *Transcript of Evidence*, 21 August, 2009, p5.

⁴⁵ Ms Moira Long, ESL Specialist Teacher, Applecross Primary School, Department of Education and Training (DET), Answer to Questions on Notice, received 21 September 2009, p3.

⁴⁶ Mr Barry France, Principal, Applecross Primary School, Department of Education and Training (DET), Answer to Questions on Notice, received 21 September 2009, p3.

⁴⁷ Mr Barry France, Principal, Applecross Primary School, Department of Education and Training (DET), Answer to Questions on Notice, received 21 September 2009, p3.

Recommendation 16

The Committee recommends that:

- the Minister for Education conducts a review at a department, district and local level to determine the number of ESL students within the State, with particular reference to the number of ESL 457 students.
- the Minister provide to Parliament details concerning the per student cost of providing the different types of ESL programs to ESL 457 students.
- the Minister provide to Parliament information about the amount of funding dedicated by the Department of Education and Training to providing ESL programs for ESL 457 students in 2009, 2010 and 2011.

5.3 Enrolment Policy and eligibility to access ESL support programs

The Department of Education and Training's Enrolment Policy outlines that principals will determine whether a student is eligible to:

*...receive ESL New Arrival support from dedicated ESL specialist staff, the ESL Visiting Teacher Service or Country Float in regional areas.*⁴⁸

The Enrolment Policy provides information that assists principals in arriving at a determination as to what student can access ESL programs. In accordance with this Policy, ESL 457 students are entitled to:

- enrol at local public schools;
- access IECs if such Centres have **spare capacity** [emphasis added]; and
- access ESL Support in mainstream classes if there is **spare capacity** [emphasis added].⁴⁹

Therefore, the provision of specialist ESL support to ESL 457 students is dependent on the 'spare capacity' of programs at government schools. Capacity is reportedly very limited.⁵⁰ Specialist ESL

⁴⁸ Department of Education and Training, *Enrolment*, 2008, p28. Available at: http://policies.det.wa.edu.au/Members/e4002033/policy.2006-01-19.8936487071/Orig_2009-09-21.7244733187.pdf. Accessed on 28 August 2008.

⁴⁹ Department of Education and Training, *Enrolment*, 2008, p31. Available at: http://policies.det.wa.edu.au/Members/e4002033/policy.2006-01-19.8936487071/Orig_2009-09-21.7244733187.pdf. Accessed on 28 August 2008.

teachers may attempt to cater for the needs of an ESL 457 student. Consequently, a Cell's teaching resources may become diluted, resulting in a higher teacher-to-student ratio.

At times the ESL teacher may simply not be able to provide support to the ESL 457 students. This may leave ESL 457 students who may not speak any English with minimal or no specialist ESL support. In Western Australia, parents of ESL 457 students pay the same local fees as other parents. This fee may vary from \$25 dollars in primary schools to \$500 in secondary schools. DET does not currently seek to recover the costs of providing ESL education to ESL 457 students by requiring the payment of compulsory fees. If there is spare capacity and they are able to be given ESL support, then it is provided free.

Finding 16

The Committee finds that the provision of specialist ESL education to ESL 457 students is dependent on the 'spare capacity' of government schools.

Recommendation 17

The Committee recommends that the Department of Education and Training change the access criteria for ESL programs so that access to them is granted in accordance with the educational needs of the student, rather than a visa category.

⁵⁰

Mr Neil Darby, Director Schools, Fremantle Education District Office, *Transcript of Evidence*, August 21, 2009, p3.

CHAPTER 6 VOLUNTEER ASSISTANCE FOR ESL STUDENTS

6.1 Volunteer programs available in government schools

The Committee was advised anecdotally that many Western Australians have already volunteered their time to provide assistance to teachers for ESL programs, only to be turned away by government schools. Before presenting to schools to offer assistance, many of these volunteers have obtained a Working with Children Check.

There are several non-government organisations that provide invaluable ‘free’ assistance to temporary visa holders and refugees, such as the Catholic Migrant Centre, Metropolitan Migrant Resource Centre, Multicultural Services Centre of WA and South Metropolitan Migrant Resource Centre, but there is not a government school-based program that fosters volunteer assistance with ESL education.

6.2 Foundation for a volunteer program

The foundation to create an ESL education volunteer program exists within the government schooling structure. DET purports that promoting community participation in student education helps achieve better outcomes for all. Further, DET has a Community Engagement Program that assists and supports districts and schools in their planning and implementation of programs which work to build partnerships with the local community and businesses, and encourage parents to take an active role in discussing their children’s learning, and be actively involved in school planning and policy development.⁵¹

The Community Engagement Program aims to, among other things, develop a culture of participation, encouraging staff engagement with the broader community through the Family Links program and remove barriers to community participation. The Family Links Program supports schools to work collaboratively with parents, caregivers and the school community. This is an important program initiated by the government to:

- establish projects to improve partnerships with parents/caregivers;
- encourage involvement of community groups in the formation and strengthening of local school/community partnerships; and

⁵¹ Department of Education and Training, ‘Inclusive Education, Engaging the community’, Available at: www.det.wa.edu.au/inclusiveeducation/detcms/navigation/community-relations/engaging-community/. Accessed on 7 September 2009.

- encourage involvement of extended family members in the school community.⁵²

6.3 Example of an existing volunteer program

DET does run other volunteer programs. An excellent example of such a program is the School Volunteer Program (SVP). The SVP works with students in selected primary and secondary schools to improve their life skills, self-esteem and self concept through mentoring. The SVP is an initiative where senior members of the community help children through 'grandparent' friendships. Students who are selected to participate in the program are under-achievers and at risk of educational failure. The SVP provides an excellent example of a successful volunteer program.⁵³

6.4 ESL volunteers

The Committee appreciates that ESL educators possess specialist skills to enable them to facilitate the education of those students with English as a Second Language. Further, it is not the recommendation of the Committee that volunteers replace much needed specialist ESL educators. Albeit, there is a potential resource available to the DET with which to create an innovative volunteer program to assist with the delivery of ESL education.

In many instances community members are expatriates, having spent up to twenty years overseas in countries such as Africa and Asia. The foreign language skills of such expatriates in some cases are potentially extraordinary and they have a deep understanding of the contextual background from which many migrants originate. For example, the Chairman reported on one community member, fluent in Swahili who approached several government schools to offer assistance and was turned away. Similar experiences are reported where particular school communities have stated that volunteer assistance was not required, rejected on the grounds that the DET had “employed educators to give schools such help” or “you’re not a teacher so what would you know”.

Students at educational institutions such as Bible Colleges are also another possible source of ESL volunteers. Students at these colleges complete a Certificate IV in TESOL (Teaching English to Speakers of Other Languages). These government-accredited courses are primarily provided by Bible Colleges in Australia (including several colleges in Perth).⁵⁴ Their TESOL students are required to do practical work, and so schools could access TESOL students as short-term volunteer teacher’s assistants in classes with high ESL student numbers. While TESOL graduates

⁵² Department of Education and Training, ‘Inclusive Education, Engaging the community’. Available at: www.det.wa.edu.au/inclusiveducation/detcms/navigation/community-relations/engaging-community/. Accessed on 7 September 2009.

⁵³ Department of Education and Training, ‘Inclusive Education, School volunteer program’. Available at: www.det.wa.edu.au/inclusiveducation/detcms/inclusiveducation/ies/community-relations/supporting-non-government-organisations/the-school-volunteer-program.en?oid=Article-id-310709&tab=Main. Accessed on 7 September 2009.

⁵⁴ According to Mr Abetz, MLA, the Bible College of WA (trading as Grace Community College) is currently teaching TESOL to 8 students, and is in the process of getting setting up the Certificate IV course, for which they already have 10 students expressing interest for 2010.

are usually focussed on long or short-term international mission work, there is potential for many of these graduates to be involved in using their skills in their local schools on their return, or prior to their leaving on overseas assignments. Many of these graduates have cross-cultural experience, and so would be an asset in schools with ESL students.

Finding 17

The Committee finds that, while external community members do not possess the specialist ESL skills of trained educators, they remain a potential resource that may provide particular benefits in the classroom.

Recommendation 18

The Committee recommends that the Department of Education and Training investigate establishing a volunteer program to assist with the delivery of ESL education in those schools with high concentrations of non to minimal English speaking students.

CHAPTER 7 ESL PROGRAM FUNDING FOR ESL 457 STUDENTS IN OTHER JURISDICTIONS

7.1 Introduction

The lack of funding for ESL programs for ESL 457 students is not unique to Western Australia. New South Wales and the Australian Capital Territory are the other jurisdictions where ‘free’ education to ESL 457 students is not universally accessible. The Committee submits that further information on the approach taken by other jurisdictions to the funding of ESL programs and mainstream education for ESL 457 students will ensure a more thorough consideration in investigating and reporting on this matter here in Western Australia.

(a) New South Wales

In July 2000, the New South Wales Department of Education and Training introduced fees for the education of temporary resident students enrolling in government schools. Temporary resident students may be required to pay the *Temporary Residents Fee* (previously called the *Temporary Visa Holders Education Fee*) as well as an administration fee. The fee represents a partial contribution to meeting the cost of educating a student in a NSW government school.

The 2009 fee structure under the *Temporary Residents Fee* for a 12-month (40 school week) period is shown in Table 7.1 below.

Table 7.1- Temporary resident student fee structure-NSW

Student age	School level	Fee
Years K – 6	Primary School	\$4,500
Years 7 – 10	Junior High School	\$4,500
Years 11 – 12	Senior High School	\$5,500

An administration fee of \$110 is also required for each student for their initial enrolment in the NSW education system.

Some temporary residents are exempt from payment of the *Temporary Residents Fee*, depending on the type of visa held. In addition, holders of some types of temporary resident visas may request an individual exemption from payment of the fee. Requests for exemption are considered on a case by case basis, in relation to the applicant’s capacity to pay.

Subclass 457 visa holders are not automatically exempt from the fee. However, they are eligible to apply for an individual exemption.

The Education Act 1990 (NSW) provides the legislative basis for the enrolment of overseas students and the payment of fees. Under Section 31A (1) and (2) of the Act, overseas students are

subject to payment of fees each year prior to initial or continuing enrolment in government schools. Section 31A (3) provides that some classes of overseas students may request an individual exemption from the payment of the fee.

As of September 2009 there were 8,549 temporary resident students enrolled in New South Wales government schools. Of these, 4,506 were new arrivals in 2008 and 2,785 students held a Subclass 457 visa. In 2008, 692 Subclass 457 visa holders required some form of ESL support.

The New South Wales Department of Education and Training is unable to provide the number of Subclass 457 visa holder students currently enrolled and receiving ESL support, as decisions in relation to ESL programs are made at a school level.⁵⁵

Finding 18

The Committee finds that if the Department of Education and Training obtained compulsory contributions of \$4,500 per ESL 457 student (a level used in New South Wales), then it would receive an additional maximum income of \$20,079,000 for the 4,462 ESL 457 students enrolled in 2009. This amount could be less if parents were mean tested, as in NSW.

Recommendation 19

The Committee recommends that the Department of Education and Training consider implementing a means-tested cost recovery program to obtain a payment of fees by 457 visa holders for ESL support in schools.

(b) Australian Capital Territory

The approach of the ACT differs considerably from other jurisdictions. There are two schemes in place in the ACT concerning the funding of ESL education for students on temporary visas, including those on the Subclass 457 visa. While the first scheme is not embodied in the written policies of the Department of Education, Youth and Family Services, it has arisen from the Commonwealth's initiative to target migration to address particular skills shortage.⁵⁶

The Commonwealth's Migrant Occupation in Demand list (MODL) details skilled occupations and specialisations, with good job prospects, as identified by DEEWR. Where a parent falls

⁵⁵ Ms Amanda Bourke, Coordinator, Multicultural Programs, Multicultural Programs Unit, NSW Department of Education and Training, Electronic Mail, 28 September 2009, p1.

⁵⁶ Ms Heather Patterson, Department of Education, Youth and Family Services, Telephone discussion, on 25 August 2009.

within the MODL, the ACT waives the usual requirement of education fees for each child. Such costs are borne by the Education Department of the ACT.⁵⁷

However, where the parent does not fall within the scope of the MODL, the temporary visa holder is required to pay the following fees shown in Table 7.2.

Table 7.2- Temporary resident student fee structure- ACT⁵⁸

Student age	School level	Fee
Years K – 6	Primary School	\$9,000
Years 7 – 10	Junior High School	\$12,000
Years 11 – 12	Senior High School	\$13,500

The ACT has implemented a fee-paying structure to recover costs for providing education to students of temporary visa holders. The Commonwealth provides education funding to the ACT on a per capita, or full-time equivalent student, basis. This funding formula does not take into consideration that the ACT has a small student population, but a large proportion of that population are temporary visas holders who are non-English speaking.⁵⁹

(c) Victoria

The Victorian government has made a commitment to provide free ESL education to ESL 457 students. As such, Victoria absorbs the costs associated with providing ESL programs to these students by providing State-based contingency funding. The Commonwealth did not provide direct funding to Victoria for ESL programs for ESL 457 students.⁶⁰

In 2008 Victoria received 6,125 new ESL students. Of these, 3,121 (50.1%) received targeted intensive English language tuition. Within the new arrival cohort there were 952 ESL 457 students, 39.4% of whom received targeted intensive English language tuition through an IEC or similar type facility. The remaining 61.6% received targeted ESL support in the mainstream classroom.⁶¹ On arrival, ESL 457 students that require English language tuition are provided with

⁵⁷ Ms Heather Patterson, Department of Education, Youth and Family Services, Telephone discussion, on 25 August 2009.

⁵⁸ These fees are for 2009. As of 2010, there will be an increase in fees. Fees for Year 1-7 will be \$9,320, Years 8-10 \$12,500 and Year 11 and 12 students \$13,900.

⁵⁹ Ms Heather Patterson, Department of Education, Youth and Family Services, Telephone discussion, on 25 August 2009.

⁶⁰ Ms Ruth Crilly, Manager ESL, Department of Education and Early Childhood Development, Telephone discussion, on 25 August 2009.

⁶¹ Ms Janet Saker for Ms Ruth Crilly, Department of Education and Early Childhood Development, Email received on 22 September 2009.

six months intensive English classes and thereafter four years of ongoing specialist ESL support, if required.⁶²

(d) Queensland

The Queensland Department of Education and Training does not require the parents of ESL 457 students to pay fees for ESL education. In circumstances where a student is assessed as requiring ESL education and special needs education (e.g. the student has a physical or intellectual disability) then the DET may ask the parents to contribute to the provision of special needs education.

In 2008 the Commonwealth did not provide direct funding for ESL programs for temporary visa holders. It is estimated that there are approximately 2,000 Subclass 457 students within the government schooling system in Queensland.⁶³

(e) South Australia

The Department of Education and Children's Services in South Australia notes that in many instances the Subclass 457 visa often permits a migrant to stay in Australia for an initial period of up to four years. As such, DECS considers that it is not sensible to deny ESL programs to ESL 457 students. Under the NEA, South Australia is responsible for the allocation of funding for ESL programs. Therefore, decisions concerning funding allocation are made at a local level.⁶⁴

There has been no reduction in Commonwealth funding for ESL programs in SA. The per capita payment includes the previous practice of providing per capita ESL New Arrivals program (ESL-NA) funding. However, the “invisibility” of this ESL funding mechanism—all funding mechanisms prior to January 2009 are rolled into the SPP—puts ESL programs at risk. South Australia has always supplemented the Commonwealth funding for ESL-NA and mainstream ESL programs. However, the focus is now on the achievement of COAG literacy targets. This has impacted upon the use of ESL funds, as there are no longer Commonwealth accountabilities for ESL education. Hence, the possibility of directing ‘ESL funds’ to other programs arises.⁶⁵

DESC has recorded the visa category of approximately 33% of ESL students. Of those, 10% have a Subclass 457 visa (approximately 803 students). South Australia allows ESL 457 students to enrol in the South Australian equivalent of IECs, free of charge. There are presently 129 ESL 457

⁶² Ms Ruth Crilly, Manager ESL, Department of Education and Early Childhood Development, Telephone discussion, on 25 August 2009.

⁶³ Gillian Bell, Senior Adviser Student Services, Department of Education and Training (DET), Telephone discussion, on 31 August 2009.

⁶⁴ Mr Don Boerema, ESL Manager, Department of Education and Children's Services, Telephone discussion, on 31 August 2009.

⁶⁵ Mr Don Boerema, ESL Manager, Department of Education and Children's Services, Telephone discussion, on 31 August 2009.

visa students enrolled in South Australian IECs, with 674 students being supported in mainstream classrooms.⁶⁶

(f) Northern Territory

The Department of Education and Training in the Northern Territory does not require the parents of ESL 457 students to financially contribute to the general education or ESL education of their children. As of 2010, the Department of Education and Training will consider redistributing the funding it receives under the NEA SPP to address the funding requirements of ESL programs, particularly, the ESL programs for temporary visa holders.⁶⁷

(g) Tasmania

Tasmania does not seek financial contributions from the parents of Subclass 457 students. Parents are required to pay local school fees, similar to their Australian counterparts. Tasmania does not offer IECs. Instead, non-English speaking students are accommodated in the mainstream classroom. This causes significant difficulties, as ESL support staff numbers are limited and their resources stretched.⁶⁸

While other States and Territories may have large numbers of Subclass 457 students, Tasmania does not. However, it has received many ESL students on humanitarian visas. The Department of Education now faces the significant issue of attempting to negotiate funding for ESL programs from State Treasury. Prior to January 2009, ESL program funding from the Commonwealth went directly to the Department of Education. However, with the implementation of the NEA, the Department of Education has to negotiate such funding from State Treasury and, to date, this has been a difficult process.⁶⁹

⁶⁶ Mr Don Boerema, ESL Manager, Department of Education and Children's Services, Email received, 21 September 2009.

⁶⁷ Ms Gail Smith, Manager Literacy Improvement Team, Telephone discussion, on 1 August 2009.

⁶⁸ Ms Jenny Barclay, Principal Education Officer for the State ESL, Department of Education, Telephone discussion, on 14 September 2009.

⁶⁹ Ms Jenny Barclay, Principal Education Officer for the State ESL, Department of Education, Telephone discussion, on 14 September 2009.

CHAPTER 8 INCLUSIVITY OF DET SERVICES FOR STUDENTS WITH A DISABILITY

8.1 Introduction

In early 2009, the Committee was alerted to the plight of educators and parents, who despite several attempts to do so, were unable to secure *Schools Plus* funding to purchase staff assistance and resources for their children with disabilities. ESL 457 students are able to be considered for support under this program, but not if the difficulty they face is just with their English. Ms Reid told the Committee:

...457 students are eligible to enrol in language development centres. They only take students who do not have an intellectual disability and who are younger than a year 1 age level and also have very complex receptive and expressive language difficulties. English as a Second Language may not come under that.⁷⁰

The Committee draws on the following example to illustrate the issue. This example is not fictitious, but the child's name has been changed.

Naija, a year 2 student, has Agenesis of the Corpus Callosum (ACC). ACC is a rare birth defect in which the corpus callosum is partially or completely absent. The corpus callosum connects the left and right cerebral hemispheres, facilitating communication between the two. Naija has poor spatial awareness. She is unable to plan daily tasks and requires step by step instructions due to a poor auditory memory. After Naija attends the toilet she often presents with her stockings around her knees. There are just too many steps in toileting for Naija to remember.

In the classroom Naija can be disruptive. She displays obsessive compulsive behaviours, lacks impulse control and is unable to monitor the volume of her voice. Having extremely poor gross motor skills, Naija struggles to walk more than four blocks without tiring. She has an unsteady gait because her knees hyperextend when she walks. Naija has difficulty with simple tasks like hitting a ball as her hand-eye coordination is poor. Because her fine motor skills are greatly impaired, Naija cannot write legibly or zip up her jacket.

Naija and her parents visit five specialists for her ACC, including a neurologist, clinical psychologist, speech pathologist, physiotherapist and occupational therapist. Together the team develops strategies for Naija's care.

From late-2006, Naija's school has submitted five applications for *Schools Plus* funding. All applications have been refused because Naija does not fall within the prescribed *Schools Plus* criteria. Naija's mother reports that the Department of Education and Training had asked that evidence be provided that Naija has a physical disability. Naija's mother reports that Naija's neurologist declined to provide such evidence, as Naija's

⁷⁰ Ms Jacqueline Reid, Manager, Disabilities, Department of Education and Training, *Transcript of Evidence*, 27 August 2009, p12.

disability is primarily a neurological disability. Crudely put, a major part of Naija's brain is simply not there. Despite this remarkable abnormality, Naija's disability does not "fit" current *Schools Plus* criteria notwithstanding the profound impact it has on her ability to learn.

Naija's school has endeavoured to assist Naija and has used 'spare' funds to provide a 0.5 full time equivalent position teacher's assistant. However, in 2010 the 'spare funds' will be depleted, and Naija will be without the assistance she requires. While Naija has marked disabilities and academically struggles in subjects such as math, art and writing, Naija is very good at reading and actively participates in class room life.

Children with an intellectual or physical disability often have problems adapting and coping with school life because of their inability to cope with the day-to-day educational agenda. The provision of educational support and suitable school infrastructure assists such students to integrate within the mainstream school system. Arguably, insufficient school funding to provide such support may alienate and disadvantage a child with intellectual or physical disabilities in comparison to his or her able-bodied/minded counterparts. It is critical that schools have the necessary resources and can access appropriate support to ensure students with disabilities not only have the opportunity to participate in the education system, but achieve equitable outcomes comparable to their able-bodied/minded peers.

There have been significant changes in the education of students with disabilities over the last twenty years. Developments include the use of empirical evidence to inform the identification and description of educational need, assessment accommodations and pedagogy. In Western Australia the DET has developed the *Schools Plus* program to support the educational needs of students and to inform and support educational planning, assessment and resource provision.

Schools Plus was designed to implement Principle 4 of *Building Inclusive Schools Pathways to the Future: A Report of the Review of Educational Services for Students with Disabilities in Government Schools*. Principle 4 advocates that all adjustments are provided on a needs basis and are equitably resourced. As such, *Schools Plus* seeks to match educational need to supplementary resourcing support for schools. Supplementary resources are provided to those Western Australian government schools in which eligible students are enrolled.

As *Schools Plus* is premised on an educational needs basis, eligibility criteria are fundamental components of the program. Eligibility for supplementary resources under *Schools Plus* is assessed in accordance with Indicated Groups. These outline the physical or mental attributes, or criteria to be met, for a student to fall within the scope of eligibility and emphasise medical diagnoses. Problems arise because the criteria prescribed in Indicated Groups are not exhaustive and some students with disabilities that do not fall within a given diagnosis are excluded and are "falling through the cracks".

8.2 Background to *Schools Plus*

The Department of Education and Training (DET) receives approximately \$145.6 million from the Commonwealth to provide resources under *Schools Plus*. This funding is targeted toward the 3.2% of the WA school population who have disabilities. Schools are eligible to receive support from *Schools Plus* when:

- the student meets the **eligibility requirements** for one or more of the **indicated groups** and significant levels of adjustments are identified [emphasis added]; and
- a school decision-making team considers the nature, extent and range of planned adjustments for a student are ongoing and beyond the school's current level of capacity, thus requiring additional external funding.⁷¹

The Schools Plus Coordination Group will, however, determine eligibility on a case-by-case basis. As outlined above, eligibility requirements include that a student fall within the scope of a particular Indicated Group. There are shortfalls with this instrumentality. In the *Building Inclusive Schools Pathways to the Future: A Report of the Review of Educational Services for Students with Disabilities in Government Schools* (Inclusive Schools Review), concern was expressed about the inequitable provision of direct or targeted financial resources for students who have equivalent educational needs. It stated:

*Resources are not provided to schools unless students with identified disabilities meet current Department eligibility criteria (see Appendix 3). Under these arrangements not all identified students with disabilities are assured of direct or targeted supplementary resource provision [emphasis added].*⁷²

The Inclusive Schools Review also identified:

*At an international level there is a recognizable increase in pressure for students to undergo an assessment or diagnostic process to determine their eligibility for access to direct or targeted resources, services and supports. This trend occurs particularly where there is a financial incentive to diagnose a disability. Having had the opportunity to observe the impacts of this trend in other educational jurisdictions, working party members urged the Department to move away from educational provision based on diagnosis towards provision based on educational needs.*⁷³

⁷¹ Ms Jacqueline Reid, Manager of Disabilities, Department of Education and Training (DET), *Transcript of Evidence*, 21 August 2009, pp10-11.

⁷² Department of Education and Training, 'Building Inclusive Schools Pathways to the Future A Report of the Review of Educational Services for Students with Disabilities in Government Schools', 2002. Available at: www.det.wa.edu.au/education/disrev/documents/reviewReport.pdf, p70. Accessed on 2 September 2009.

⁷³ Department of Education and Training, 'Building Inclusive Schools Pathways to the Future A Report of the Review of Educational Services for Students with Disabilities in Government Schools', 2002. Available at: www.det.wa.edu.au/education/disrev/documents/reviewReport.pdf, p70. Accessed on 2 September 2009.

Notwithstanding the call for an educational needs model of resource planning, *Schools Plus* eligibility criteria remains premised on Indicated Groups that embrace specific medical diagnoses.

Finding 19

The Committee finds that in 2004, the Department of Education and Training undertook a comprehensive review of *Schools Plus* in which several recommendations were made. Included in those recommendations was the suggestion that there be a move away from educational provision based on a medical diagnosis towards provision based on educational needs.

Recommendation 20

The Committee recommends that the Minister for Education report to the Parliament on the implementation, by the Department of Education and Training, of recommendations proposed in the *Inclusive Schools Review*.

8.3 Indicated Groups framework

The Indicated Groups used by DET for assessment for support under the *Schools Plus* program include the following eight criteria:

- global developmental delay (under 6 years-old);
- intellectual disability;
- autism spectrum disorder;
- vision impairment;
- deaf and hard of hearing;
- severe mental disorder;
- physical disability; and
- severe medical/health condition.

While the Indicated Groups appear on the face of it to be broad in scope, it is often the case that a student with a disability will fall outside of them.

Finding 20

The use of Indicated Groups may inadvertently exclude those students with disabilities who otherwise require significant, and often, ongoing teaching and learning adjustments. The current Indicated Groups make it difficult for ESL 457 students to be provided support under the *Schools Plus* program.

Recommendation 21

The Committee recommends that the Department of Education and Training initiate a review of the current eligibility criteria for *Schools Plus* and the use of Indicated Groups with a view to adopting a purely functional assessment approach focusing on educational needs.

8.4 *Schools Plus* assessment

Evidence gathered by the Committee indicates that the collation of evidence to support a *Schools Plus* application is onerous, time consuming and difficult. While schools receive some financial support to fund an educator to collate such information, the process remains lengthy and time consuming, particularly for some schools. Rigour in assessment for *Schools Plus* is required to minimise the inappropriate granting or non-granting of funds. The Committee has heard it is not unusual that the time for data gathering and assessing the application for *Schools Plus* may take between 12 to 18 months to complete.

The process for determining which group a student may fall within is generally a two-part process. Initially, a medical diagnosis is required. For example, if the disability is an intellectual disability the school psychologist or a psychologist from the Disability Services Commission will make the diagnosis. If for example the disability is autism, then a diagnosis may be made through referral to a paediatrician, speech pathologist and a psychologist. The type of disability will determine who makes the diagnosis or determines the Indicated Group.

After a medical diagnosis has been made, the school psychologist, learning support coordinator, principal and perhaps parents, make a judgment on the student's level of functionality. Delays in determining an appropriate Indicated Group are often experienced. For example, a child with autism may wait 12-18 months on the public waiting list for an assessment. However, a school may apply for interim funding for a student with disabilities while a final determination is made.

Finding 21

The Committee finds that it is essential that there is rigour in the application process for *Schools Plus*. However, the existing evidence requirements and application process may take an extended time and utilise considerable staff resources.

Recommendation 22

The Committee recommends that the Department of Education and Training review its current application process for *Schools Plus*, with a view of simplifying the process to decrease the amount of time and resources required to complete funding applications.

The allocation of interim funding is not without its problems. The interim funding allocated may not be sufficient to cater for the functional needs of the student. For example, the final determination of an Indicated Group and functionality, the student may receive interim support of 0.2 full-time equivalent's assistance. However, on final determination, the student's allocation of support may be significantly more. DET can increase interim funding where indicated.

Once a diagnosis and functionality assessment of a student is complete, *Schools Plus* funding is usually provided within 2 weeks. DET should consider incorporating within the Indicated Groups new conditions such as foetal alcohol syndrome and dyslexia, as well as other disabilities that are not currently funded.

8.5 Lack of parity between jurisdictions

As noted above, the *Schools Plus* program is exclusive to Western Australia. This may inadvertently cause difficulties for those students with disabilities who enrol in Western Australian schools from other jurisdictions.⁷⁴ For example, students with a particular disability may receive additional support in Queensland but that disability may not be of a type that attracts financial assistance in Western Australia.

⁷⁴ Ms Jacqueline Reid, Manager of Disabilities, Department of Education and Training (DET), *Transcript of Evidence*, 21 August 2009, p18.

Finding 22

The Committee finds that there is little parity between the States in relation to how they assess children with a disability via measures such as Indicated Groups.

Recommendation 23

The Committee recommends that the Minister for Education negotiate with her counterparts in other jurisdictions as to what steps can be implemented to ensure that there is a greater level of parity between the States and Territories concerning eligibility criteria for financial support and resourcing for programs similar to *Schools Plus*.

8.6 Additional funding for students with disabilities

The Committee heard evidence that *Schools Plus* funding is not the only source of funding for students with disabilities available for schools. It was identified that additional support was provided through *School Support Program Resource Allocation Funding*, *Visiting Teacher Services* and other funding mechanisms. DET should endeavour to provide further information to parents and teachers on alternative sources of funding for students with disabilities. This will assist the Minister for Education to ensure that all sources of funding are taken into consideration in investigating and reporting on this matter.

8.7 Review of *Schools Plus*

DET is continuing an ongoing review of *Schools Plus*. Whether the review will produce findings and recommendations similar to its predecessor cannot be predicted. However, the Committee understands that DET is considering other State models concerning medical diagnoses and Indicated Groups. Further, in terms of data collection for the *Schools Plus* application process, DET is considering a checklist approach to reduce time and requirements of staff, whilst building rigour into the process. Although there is capacity for *Schools Plus* to provide interim support during the completion of an application, it is possible that interim support is less than that which would be offered post-final assessment.

APPENDIX ONE

HEARINGS

List of hearings held.

Date	Name	Position	Organisation
27 August 2009	Mr Neil Darby	Director, Schools	Department of Education and Training
	Mr Barry France	Principal, Applecross Primary School	Department of Education and Training
	Mrs Moira Long	ESL Teacher, Applecross Primary School	Department of Education and Training
	Ms Jacqueline Reid	Manager, Disabilities	Department of Education and Training
	Ms Natalie Tarr	Principal Consultant ESL/ESD	Department of Education and Training

APPENDIX TWO

SCHOOLS WHO RECEIVED ADDITIONAL DET FUNDING TO SUPPORT STUDENTS' LANGUAGE COMPETENCE

Table A2- Schools Who Received Additional DET Funding in April 2009 to Support Students' English Language Competence, with Particular Focus on Literacy and Numeracy⁷⁵

School	Funding Amount
Applecross Primary School	\$5,000
Applecross Senior High School	\$5,000
Bannister Creek Primary School	\$5,000
Bateman Primary School	\$5,000
Belmay Primary School	\$5,000
Belmont City College	\$12,000
Bentley Primary School	\$5,000
Brookman Primary School	\$5,000
Bungaree Primary School	\$5,000
Burrendah Primary School	\$5,000
Caladenia Primary School	\$5,000
Campbell Primary School	\$5,000
Cannington Community College	\$10,000
Canning Vale College	\$5,000
Canning Vale Primary School	\$5,000
Carlisle Primary School	\$5,000
Churchlands Senior High School	\$10,000
Cloverdale Primary School	\$5,000

⁷⁵ Mr Neil Darby, Director Schools, Fremantle Education District Office, Department of Education and Training (DET), Answer to Questions on Notice, received 21 September 2009, p5.

EDUCATION AND HEALTH STANDING COMMITTEE

Como Secondary College	\$5,000
Cooinda Primary School	\$5,000
Cyril Jackson Senior Campus	\$5,000
East Kenwick Primary School	\$5,000
East Victoria Park Primary School	\$5,000
Ellen Stirling Primary School	\$5,000
Embleton Primary School	\$5,000
Gibbs Street Primary School	\$5,000
Gingin District High School	\$5,000
Greenwood Senior High School	\$12,000
Highgate Primary School	\$12,000
Inglewood Primary School	\$5,000
Joondalup Primary School	\$5,000
Katanning Primary School	\$5,000
Kent Street Senior High School	\$12,000
Lake Grace District High School	\$5,000
Lake Monger Primary School	\$5,000
Leeming Senior High School	\$10,000
Lynwood Senior High School	\$10,000
Maddington Primary School	\$5,000
Maylands Peninsula Primary School	\$10,000
Melville Primary School	\$5,000
Melville Senior High School	\$5,000
Midvale Primary School	\$12,000
Morley Senior High School	\$5,000
Mount Lawley Senior High School	\$10,000

EDUCATION AND HEALTH STANDING COMMITTEE

Mount Pleasant Primary School	\$5,000
North Kalgoorlie Primary School	\$5,000
Osborne Primary School	\$5,000
Parkwood Primary School	\$10,000
Riverton Primary School	\$5,000
Rossmoyne Primary School	\$5,000
Rossmoyne Senior High School	\$5,000
Rostrata Primary School	\$10,000
Shenton College	\$5,000
South Kalgoorlie Primary School	\$5,000
South Lake Primary School	\$5,000
South Perth Primary School	\$10,000
Spearwood Primary School	\$5,000
Subiaco Primary School	\$12,000
Thornlie Senior High School	\$5,000
Victoria Park Primary School	\$10,000
Warriapendi Primary School	\$5,000
Willetton Primary School	\$5,000
Willetton Senior High School	\$10,000
Wilson Primary School	\$5,000
Yale Primary School	\$5,000

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