

Subject: CPS & preschool governance and the Toward 2020 proposal

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Priority: Highest

Dear Mr Barr,

In the past week it has come to our attention that there maybe some issues relating to preschool governance that will require closer examination. We have found that the provision of preschool education in the ACT is undertaken in a "joint-venture" between the individual preschool Parent Association and the government department responsible for the provision of buildings and teachers. This stems back to 1943 when the first parent group, then called the Canberra Kindergarten Society was formed.

It appears that many of the older preschools (Reid, Ainslie, Causeway, Campbell, Turner, etc) were initiated by the Parent Association and that they came about as a result of an agreement between the Department of Interior and the individual Parent Association in the mid 1940's. This pattern of shared, or joint, responsibility still exists today – although, now that preschool has become such an accepted part of a child's early childhood education, when the ACTDET build a school they automatically build a preschool. However, as in the case of all 81 preschools, currently in operation, this pattern of joint responsibility is required **before** a Preschool can open. For example, **before** Amaroo Preschool could open, in 2003, there needed to be the Amaroo Preschool Parent Association (an operational legal entity) that was in place and already providing the stipulated day-to-day financial and operational management – they had to be legally present and had raised a previously stipulated amount of money (\$6,000 as they were to be a double unit – for single units the amount is \$3,000). It is currently understood by the ACTDET that if the Parent Association has not met their part of the joint-venture arrangements that the Preschool cannot open.

I am aware that this is very much tied up in historical agreements between various bodies – however, the bodies for those individual preschools have remained in place – without a break – from well before the date that each of the Preschools are opened and the children enter.

What follows is a preliminary attempt to unravel the legislative issues – of which I am sure you would have considerably more experience on these matters and I have to rely upon your judgment and ability to 'read between the lines' of my thoughts on this issue.

The current ACT Education Act (2004) considers that **government schools** include preschool. As seen in the reference in the Dictionary at the end of the ACT document.

government school means—

- (a) except for part 3.4 (School boards of government schools)—a school, preschool or school-related institution established under section 20 (Establishing government schools etc); and
- (b) for part 3.4—a school or school-related institution established under section 20.

The Act gives authority to the Minister to establish preschools:

Chapter 3 Government schools

Part 3.2 Establishment and operation of government schools

20 Establishing government schools etc

(1) The Minister may establish government schools *and preschools* (government schools). [italics mine]

But the Act does not include the specific reference to preschools later in the same section.

Chapter 3 Government schools

Part 3.2 Establishment and operation of government schools

20 Establishing government schools etc

(4) The Minister may name, and change the name of, a government school or school-related

institution.

(5) Before closing or amalgamating a government school, the Minister must—

Whilst this might be seen as ‘clutching at straws’ the exclusion of preschools, from the term ‘government schools’, occurs at other points (later in the Act), Which begs attention as to why preschools are specifically mentioned in relation to establishment – but not in relation to their closing or amalgamation.

I would suggest that this is because of the historical “joint venture’ arrangement that places the opening of preschools to be in the hands of the Parent Association – which MUST be in place **before the preschool opens**.

They, the Parent Association, must be a legal entity and have raised a stipulated amount of \$6,000 (in the case of a double unit) before the preschool can open.

This surely raises the question as to whether the Government can legally undertake their closure or amalgamation WITHOUT the participation (consent) of the Parent Association that has been in legal operation before the preschool has been in operation. It seems that the Parent Associations of all preschools in the ACT (including Jervis Bay) were been operating first and have stayed in operation throughout the years that the preschool has received enrolments and operated as a non-compulsory school that the government, both historically and currently, has agreed to provide in a joint venture with a non-government legal entity.

This established differentiation between government schools and preschools continues through-out the Act. Preschools are considered different to mainstream ‘government schools’ in the Education Act (2004) within the context of:

Chapter 3 Government schools

Part 3.4 School boards of government schools

Division 3.4.1 Interpretation

37 Definitions for pt 3.4

“**school** means a government school, but does not include a preschool.”

Division 3.4.2 Establishment and membership

38 Establishment of school boards

A school board is established for each government school.

Note Section 146 (Preschools) deals with opportunities for parents of children at preschools to participate in the conduct of the preschool.

And the note in Section 146:

Chapter 6 Miscellaneous

Part 6.2 Other provisions

Section 146 Preschools

In exercising functions in relation to a government preschool, the chief executive must take the steps necessary to encourage, and give opportunities to, parents of children attending the preschool to *participate in the conduct of the preschool*. [italics mine]

From a historical perspective these same references, between government schools and preschools, read in a similar fashion in the Schools Authority Act 1976 (repealed)

Where the Government required the capacity to open preschools as they provided the teacher and the building. Hence they must be ‘put’ under some authority – somewhere within the system?

Part 2 Establishment, functions and powers of schools authority

Section 5

6 Functions of authority

(1) The functions of the authority are—

(a) to *establish and conduct* [italics mine] in the ACT, on behalf of the Territory—

(i) preschools, primary schools, high schools and secondary colleges; and

However, preschools were still exempted from the definition of School with respect to School Boards.

Part 7 School boards

36 Interpretation for pt 7

(3) A reference in this part to a school does not include a reference to a preschool referred to in section 6 (1) (a) (i).

Which is corroborated by the definition for a full-time student:

(1) **full-time student** means a student who is attending classes at a school during a total period of class time that is not less than 12 hours per week.

At that point Preschools were operating for 10.5 hours.

The aspect of Preschool governance was covered in the following:

Part 8 Parent participation in preschools

50 Authority to take steps to facilitate parent participation in conduct of preschools

The authority shall, in the exercise of its functions in relation to a preschool, take the steps that are necessary to encourage, and afford adequate opportunities for, parents of children attending the preschool to *participate in the conduct of that preschool*. [italics mine]

The case of ‘parents participating in the conduct’ of preschool differentiates the authority’s management from other government schools.

The words ‘conduct of’ are in our own CPS Constitution (1996) and those of our individual Parent Associations

1.1.1 The aims of CPS are:

d. To facilitate the *conduct of pre-schools* within the Australian Capital Territory, and. [italics mine]

At this point the CPS and our individual preschool Parent Associations are seeking independent legal advice on this issue as they believe that the process put in place for the proposed closure of some preschools and the amalgamation, of the remainder, into a local Primary School will require careful handling and attention to the non-government legal entity (the Preschool Parent Association) and the governance issues that have been in place well before each of the Preschools were opened to receive children to participate in the educational provision that currently lies in the hands of the ACTDET.

We see our email to you as a part of the Toward 2020 community consultation process that is still effect. We look forward to discussing this matter further with you – should the opportunity arise.

Yours sincerely,

Carolyn Harkness

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The CPS is a strong effective voice of the parents of preschool children in the ACT. We work together to promote choice and opportunity in preschool education.

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