

Passed by both Houses



New South Wales

Education Amendment (Publication of School Results) Bill 2009

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2009*



New South Wales

Education Amendment (Publication of School Results) Bill 2009

Act No , 2009

An Act to amend the *Education Act 1990* and the *Education Regulation 2007* with respect to the publication of school results.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Education Amendment (Publication of School Results) Act 2009*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Education Act 1990 No 8

[1] Section 18A

Omit the section. Insert instead:

18A Publication of school results

(1) In this section:

relevant national agreement means an agreement between the State and the Commonwealth that gives effect to a national protocol or arrangement for the provision and publication of school results.

school results means the following results (whether they are the results of individuals or of schools or any other results):

- (a) results of national basic skills testing (including testing under section 18),
- (b) results of School Certificate and Higher School Certificate examinations and related assessments,
- (c) results of annual or other periodic assessments of the academic performance of students contained in reports to parents on student achievement.

The regulations may determine whether particular results are or are not results referred to in paragraphs (a)–(c).

- (2) School results may, in accordance with a relevant national agreement, be provided by the State to the Commonwealth or to an authority established by the Commonwealth.
- (3) School results must not be publicly revealed in a way that ranks or otherwise compares the results of particular schools, except as authorised by or under a relevant national agreement.
- (4) A person must not, in a newspaper or other document that is publicly available in this State:
 - (a) publish any ranking or other comparison of particular schools according to school results, except with the permission of the principals of the schools involved, or
 - (b) identify a school as being in a percentile of less than 90 per cent in relation to school results, except with the permission of the principal of the school.

Maximum penalty: 50 penalty units in the case of an individual and 500 penalty units in any other case.

- (5) Nothing in subsection (4) prohibits:
 - (a) anything authorised to be done by or under a relevant national agreement, or
 - (b) the publication of the ranking of the schools in the top 10 per cent in relation to the results of Higher School Certificate examinations and related assessments so long as the information used to determine that ranking is information as to the results of students that may be publicly revealed under subsection (6) (c).
- (6) School results must not be publicly revealed if the results of an identified student are revealed, except as follows:
 - (a) to the student or to the student's parents, or to anyone with the student's or parent's consent,
 - (b) to the principal of a school (including a school in another State or Territory) at which the student is enrolling, is enrolled or was previously enrolled,
 - (c) in the case of results of School Certificate or Higher School Certificate examinations and related assessments—by or with the approval of the Board, by way of the publication of the results of students who the Board considers have achieved outstanding results.
- (7) The functions of the State under this section may be exercised by the Director-General or, if authorised by a relevant national agreement, by a State educational authority that arranges the testing, examinations or assessments concerned.
- (8) This section has effect despite any other Act or law or the decision of any tribunal.

[2] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

Education Amendment (Publication of School Results) Act 2009

[3] Schedule 3

Insert at the end of the Schedule:

**Part 10 Provisions consequent on enactment of
Education Amendment (Publication of
School Results) Act 2009**

18 Definition and application

(1) In this Part:

amending Act means the *Education Amendment (Publication of School Results) Act 2009*.

(2) This Part has effect despite any other Act or law or the decision of any tribunal.

19 Application of amending Act to previous school results

Section 18A (as substituted by the amending Act) extends to school results for testing, examinations and assessments held before the commencement of the amending Act.

20 FOI exemption—transitional arrangement

Until the repeal of the *Freedom of Information Act 1989*, clause 12 of Schedule 1 to that Act applies to a breach of the confidentiality provisions of section 18A of this Act in the same way as it applies to an offence against an Act.

21 Crown Employees (Teachers in Schools and Related Employees) Salaries and Conditions Award 2009

On and from the commencement of the amending Act, clauses 13.2, 13.3 and 36.1.2 of the *Crown Employees (Teachers in Schools and Related Employees) Salaries and Conditions Award 2009* cease to have effect.

**Schedule 2 Amendment of Education Regulation
2007**

Clause 4 Publication of results and other matters

Omit the clause.