

Department of Education

**THE REVIEW OF NON-GOVERNMENT
SCHOOLS CENSUS PROCESS**

DRAFT REPORT

7 December 2023

This project was conducted in accordance with the international quality standard ISO 20252, the international information security standard ISO 27001, as well as the Australian Privacy Principles contained in the *Privacy Act 1988* (Cth). ORIMA Research also adheres to the Privacy (Market and Social Research) Code 2021 administered by the Australian Data and Insights Association (ADIA).

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Contents

I. Executive Summary	4
II. Introduction	8
A. Background.....	8
B. The issue.....	9
C. Scope of the Review.....	9
D. Review methodology.....	10
III. Findings	11
A. Causes of the issue.....	11
B. Any circumstances that may have contributed to the non-compliance and the delayed detection by the department.....	17
C. Approved authorities’ awareness of their obligations.....	21
D. The implications of payments that have been provided to affected schools previously.....	24
E. Any evidence that this issue may be present in other jurisdictions warranting further investigation.....	25
F. Any mitigations that need to be put in place and lessons learned to ensure future payment integrity.....	36
IV. Conclusions and recommendations	47
Appendix A: Terms of Reference.....	51
Appendix B: Fact Sheet “Mid-Year Intake for Foundation year – recurrent funding for Foundation year”.....	54

I. Executive Summary

Background

Non-government schools (NGS) are funded under the *Australian Education Act 2013* (the **Act**). Schools are funded based on student data collected through the non-government schools census held in August each year. Census day usually occurs towards the beginning of Term 3. The Act provides for NGS to only receive Commonwealth funding for seven years of primary school in respect of each eligible student (with additional funding provided for students who repeat – one year of additional funding for each year repeated).

In 2018, Catholic and Independent schools in South Australia (**SA**) increasingly started offering **18-month Foundation programs**, extending the traditional foundation year by 6 months (known as Reception in SA and Kindergarten or Prep in other jurisdictions). These programs allow students who turn 5 years of age between 1 May and 30 October to start Foundation in Term 3 and then continue with a full year of Foundation the following year. By 2023 of the 190 non-government schools providing primary education in South Australia, 130 schools reported offering 18-month Foundation programs. These children are referred to in this Review as mid-year intake (**MYI**) students.

Issue

From 2018 to 2022, an increasing number of SA NGS schools offering 18-month Foundation programs included such students in their census returns for two consecutive years. This meant that they received two years (24 months) of funding for students who can only attract recurrent funding for a single year under legislative arrangements.

Key Findings

Prior to 2018 it was clear that schools could not include students commencing Foundation MYI in their census returns. This was because schools were specifically instructed by the Department of Education (**the department**), via guidance material, not to report Foundation students “who will not be proceeding to Year 1 in Terms 1 or 2 of the following year”. These children were eligible to be reported as Foundation students in the year following their commencement.

In 2018, the legislation and guidance material were substantially amended. As part of these changes, the department removed the abovementioned instruction. The policy intent of removing the instruction was to allow (consistent with Australian Government policy and legislation) additional funding to schools for Foundation students who **repeated** an entire year of Foundation (consistent with the treatment of other students who repeat any other year of school). This change was interpreted by schools and departmental staff administering the census as allowing children participating in 18-month Foundation programs to be reported in the census in both the year they commence and the following year (as the last 12 months of the program was interpreted as effectively being a ‘repeat year’).

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To ensure parents and guardians who had already enrolled their children in MYI in SA NGS were not adversely impacted, in 2023, the Australian Government made a decision to provide one-off transition assistance. SA NGS provided separate data in relation to MYI Foundation enrolments and received an equivalent payment (to payments made in respect of students counted in the census) under section 69 of the Act (Special Circumstances Funding) in respect of these students for 2023.

South Australia

- The key cause of payments being made to SA NGS for students enrolled in the first 6 months of an 18-month Foundation program was the decision in 2018 to remove the abovementioned policy guidance on not including in school census returns individual students who were likely to continue in Foundation for a second year.
- The briefs to the then Minister about the 2018 changes specifically highlighted the risks of overpayments in relation to both MYI and multi-year programs in response to the policy decision to allow additional payments for children repeating a full year of Foundation. However, these risks were not effectively communicated, monitored or controlled.
- The key factors that contributed to this issue, and the delayed detection by the department, were:
 - ineffective communication of identified risks associated with the 2018 amendments to the legislative and policy framework to departmental staff responsible for the processing of, and assurance of, payments to NGS, and
 - the consequent lack of awareness amongst these staff that including MYI students twice in census returns was not consistent with policy or the Act. This lack of awareness resulted in ambiguous advice to SA NGS representatives.
- SA NGS:
 - believed that MYI Foundation students were eligible to be included in the census,
 - started including Foundation MYI students in their census returns in 2018, and
 - only ceased doing so in 2023 when the government made a decision that these students would be separately reported and funded for 2023 only.
- The failure to effectively monitor and control the risks associated with 18-month Foundation programs resulted in considerable payments which were inconsistent with the Act:
 - over the period 2018 – 2022, SA NGS potentially received recurrent funding for around 6,000 ineligible students, and
 - in 2023, SA non-government schools received funding (via the Special Circumstances provisions of the Act) for 1,960 MYI Foundation students who were otherwise ineligible for recurrent funding.

- The Secretary agreed to not exercise the discretion delegated to him under the Act to take recovery action against SA NGS that have received two years of recurrent funding for providing 18-month foundation programs.
 - s 42
 - The limitations of deidentified data creates significant practical difficulty in identifying and quantifying such debts.

Other jurisdictions

- There is little evidence of widespread inclusion of Foundation MYI students by schools in other jurisdictions.
- The review identified one school in the Northern Territory which was confirmed as providing a MYI Foundation program and four other Montessori and Rudolf Steiner schools that may be including children attending mid-year and multi-year Foundation programs in their census returns. Of the five Montessori/Steiner schools, the largest potential overpayment was for a school that may have included 184 4-year-old students over 2017 – 2023.

RECOMMENDATIONS

Montessori and Steiner schools

It is recommended that the department:

- revise the Fact Sheet to ensure schools offering mixed-age Foundation programs (such as those offered by Montessori schools) understand students should only be included in the census for 1 year of Foundation,
- review any instances of Montessori or Steiner schools reporting 3-year-olds or 4-year-olds, and
- s 47E(d)

The Review supports a proposed targeted communication campaign to all Montessori and Steiner schools to ensure these schools are aware that multi-year Foundation students are not “repeat Foundation students” and should not be included in the census.

Review of *SchoolsHUB* warning indicators

s 47E(d)

More generally, the Review recommends that the census reporting and compliance risk indicators be reviewed annually as part of the risk-based assurance process in the *Schools Funding Assurance Framework*.

Increased use of data analytics

s 37(2)(b)

Data analytics may also provide a post-payment report on overall trends in particular jurisdictions or sectors. This could include analysis of open-text responses from schools in relation to flagged risks to identify common themes. This report may identify emerging issues for referral to policy and/or compliance teams.

Targeted compliance activities

In the limited time available, the Review identified 7 instances of potential non-compliance (one of which had previously been identified by the department on its Post Enumeration register). s 37(2)(b)

The department plans to use its statutory powers to require these high risk schools to provide records/ documents demonstrating that students are eligible. s 37(2)(b)

Greater communication across policy, payments and assurance areas of the department

Discussions with departmental staff involved in the payments and assurance processes highlighted siloed risk management processes and limited analysis of the census data had contributed to the delayed detection of this issue by the department.

The Review considers there needs to be greater communication between the policy, payments and assurance areas of the department, particularly when identifying risks to be monitored and controlled. These discussions should occur in advance of the annual census process so that appropriate risk indicators can be developed and implemented during the census process.

II. Introduction

A. Background

Non-government schools (**NGS**) are funded under the *Australian Education Act 2013* (the **Act**). It defines primary school as “foundation to year 6”. “Foundation” is defined as “the year of schooling immediately before year 1”. In the ACT and NSW Foundation is called “kindergarten”. In South Australia it is called “reception”. The Act provides that, unless an individual student repeats, schools only receive Commonwealth funding for seven years of primary school.

Schools are funded based on student data collected through the non-government schools census held in August each year. This includes the number and characteristics of students enrolled on the first Friday in August (**census day**). Census day usually occurs towards the beginning of Term 3. While the Act provides for NGS to only receive Commonwealth funding for seven years of primary school in respect of each eligible student, additional funding can be provided for students who repeat a year. One year of additional funding is provided for each year repeated.

In 2018, Catholic and Independent schools in South Australia (**SA**) increasingly started offering 18-month Foundation programs. These programs allow students who turn 5 between 1 May and 30 October to start Foundation in Term 3. By 2023, around 130 non-government schools in South Australia were offering 18-month Foundation programs, of the 190 schools that provide primary level education in the non-government sector. These children are referred to in the Review as mid-year intake (**MYI**) students.

Prior to 2018, it was clear that schools could not include students commencing Foundation MYI in their census returns. This was because schools were specifically instructed not to report Foundation students “who will not be proceeding to Year 1 in Terms 1 or 2 of the following year”. These children were eligible to be reported as Foundation students the following year.

In 2018, the legislation and guidance material were substantially amended. As part of these changes, the Department of Education (**the department**) removed the abovementioned instruction. The policy intent of removing the instruction was to allow (consistent with Australian Government policy and legislation) additional funding for Foundation students who repeated an entire year of Foundation (consistent with the treatment of other students who repeat any other year of school). This change was interpreted by schools and departmental staff administering the census as allowing children participating in 18-month Foundation programs to be reported in the census in both the year they commence and the following year (as the last 12 months of the program was interpreted as effectively being a ‘repeat year’).

In June 2022, a small independent school in SA contacted the department asking to update its 2021 census data to include 4-year-old MYI students who had been omitted by the previous business manager (on the mistaken understanding that they were not eligible). s 42

It issued a Fact Sheet (at Appendix B) that clarified for schools that children starting Foundation mid-year should only be reported in the year immediately before they start year 1 (i.e., the following year).

B. The issue

SA NGS started including commencing Foundation MYI students in their census returns in 2018 and continued to do so until 2022. The Act does not include any mechanism for funding MYI students on a pro-rata basis. Accordingly, the Commonwealth (inadvertently) funded MYI students for two full years during this period.

To ensure parents and guardians who had already enrolled their children in MYI in SA NGS were not adversely impacted, in 2023, the Australian Government made a decision to provide one-off transition assistance. In 2023, SA NGS provided separate data in relation to MYI Foundation enrolments and received an equivalent payment (to payments made in respect of students counted in the census) under Section 69 of the Act (Special Circumstances Funding) in respect of these students for 2023. The transitional payments made to non-government schools in South Australia in relation to MYI Foundation students was \$24.202 million.

The inclusion of MYI students in school census returns from 2018 to 2022 has resulted in payments not consistent with the Act to schools over those years. Census data is not provided at an individual student level (it is aggregated at a year level with associated aggregated student characteristics that inform loading entitlements), making it difficult to identify MYI students from previous years, and the department is not able to calculate the Commonwealth funding paid for MYI students over those previous years.

The Secretary agreed to not exercise the discretion delegated to him under the Act to take recovery action against SA NGS that have received two years of recurrent funding for providing 18-month foundation programs.

- s 42
- The limitations of deidentified data creates significant practical difficulty in identifying and quantifying such debts.

C. Scope of the Review

The Review's terms of reference are at Appendix A. These terms of reference specify that the key focus areas for the Review are:

- A. **causes of the issue** in relation to the 18-month Foundation year in South Australia that led to overpayments, including the department's role, governance, systems, and assurances processes for the Non-government Schools Census collection,
- B. **any circumstances that may have contributed to the non-compliance and the delayed detection** by the department,
- C. **approved authorities' awareness of their obligations** to provide accurate information on school attendees,
- D. **the implications of payments that have been provided to affected schools** previously, including whether there is an obligation on the Commonwealth to recover these funds,
- E. **any evidence that this issue may be present in other jurisdictions** warranting further investigation, and
- F. **any mitigations that need to be put in place to address excess payments occurring in the future** and lessons learned to ensure future payment integrity.

This report presents findings in relation to each of these key focus areas and overall conclusions and recommendations in relation to the controls in place to prevent misreporting and to detect and respond to anomalies in the data reported by non-government schools.

It was agreed with the department that:

- given an Internal Audit of the Recurrent School Funding Entitlement Calculations¹ has been conducted concurrently with the Review, the Review would **not** assess the accuracy of recurrent funding calculations but would focus on the systems in place to assure the accuracy of Foundation enrolments included in non-government school census returns, and
- s 42

D. Review methodology

A key constraint for the Review was the tight timeframe for its completion. ORIMA Research was engaged to commence the Review on 13 October 2023 with the objective of providing in a Draft Report five weeks later. Given this, it was agreed that ORIMA would **not** consult external stakeholders (e.g., representatives of non-government schools in various jurisdictions), but would:

- review guidance materials available to departmental staff involved in the census process,
- conduct a desktop review of publicly available information,
- consult with departmental staff responsible for the NGS census process,
- review departmental communications with the non-government school sector concerning their census reporting obligations in relation to 18-month Foundation programs,
- review departmental documentation and analysis in relation to compliance and assurance processes for the census, including any mitigations put in place to address overpayments occurring in the future and lessons learned to ensure future payment integrity, and
- conduct independent analysis of *Non-Government Schools Census* data (for 2017 – 2023) to:
 - establish whether there is any evidence that this overpayment issue may be present in other jurisdictions, warranting further investigation, and
 - validate departmental analysis relating to the risk of claiming for 18-month Foundation programs across jurisdictions and update this analysis to include data from the 2023 NGS census.

¹ This Internal Audit commenced in October 2023 and was due to report in November 2023. Its objective is to assess whether the Production Ready Spreadsheet and Commonwealth Share Manager used to calculate recurrent school funding levels are fit for purpose and adhere to the legislative formula prescribed in the *Australian Education Act 2013* and the *Australian Education Regulations 2023*.

III. Findings

This chapter presents the Review findings in relation to each of the six focus areas specified in the Review’s terms of reference.²

A. Causes of the issue

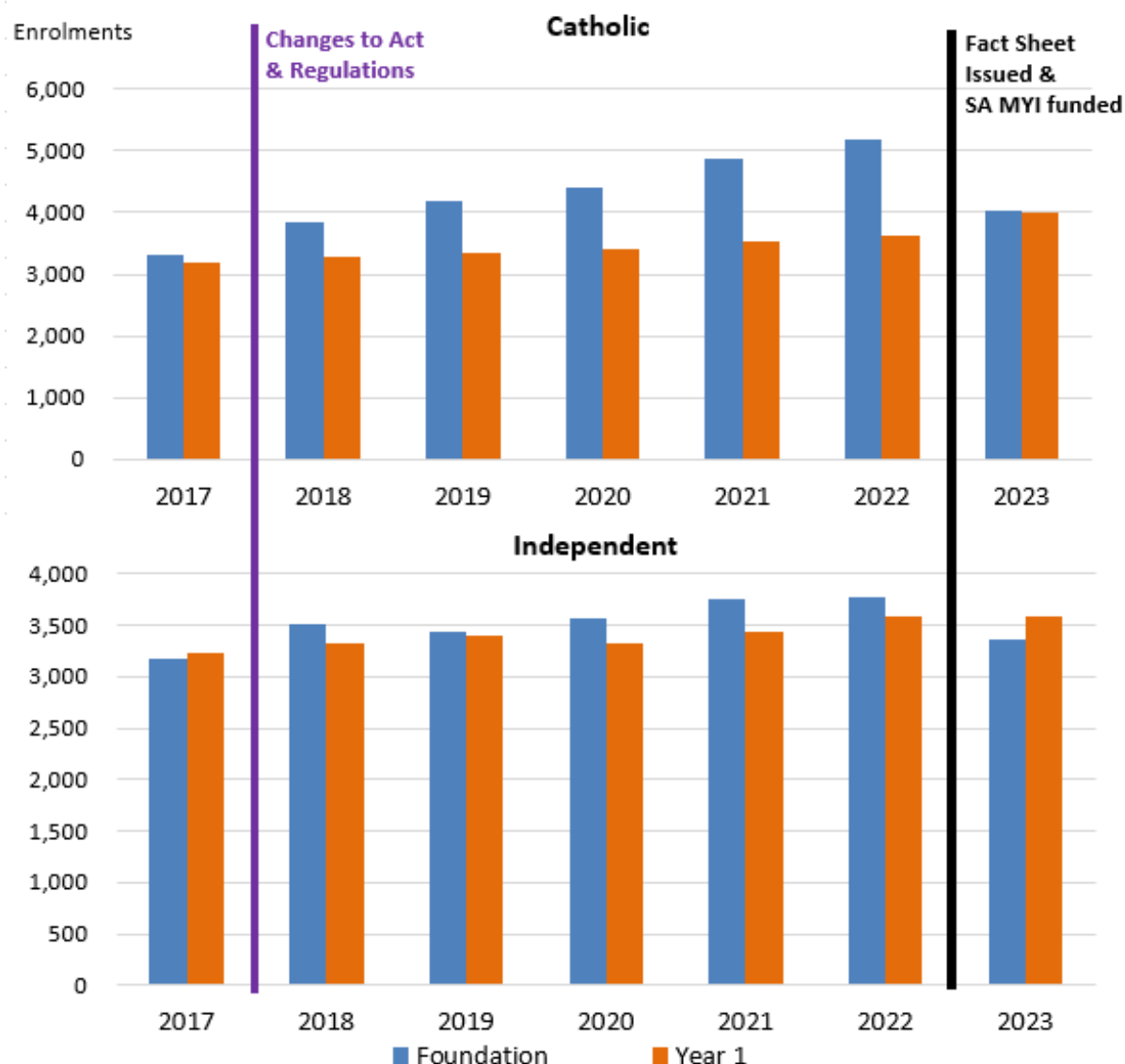
In most States and Territories, enrolment levels in Foundation and Year 1 are closely aligned, with minor differences arising due to repeating students and movement of students between sectors and/or jurisdictions. Figure 1 shows that from 2018 to 2022 Foundation enrolments in South Australian (SA) non-government schools (NGS) rose significantly faster than Year 1 enrolments such that, by 2022, NGS Foundation enrolments were 24% higher than NGS Year 1 enrolments. Figure 2 shows that that this occurred across both the Catholic and Independent sectors. Both Figures show that in 2023 (when the Fact Sheet was issued and MYI students were separately funded), the number of Foundation students reported returned to levels that were closely aligned with Year 1 enrolments.

Figure 1: Non-Government School Foundation and Year 1 Enrolments



² The Review’s Terms of Reference is at Appendix A.

Figure 2: Non-Government School Foundation and Year 1 Enrolments, South Australia



The reason why enrolments in Foundation increased dramatically in 2018 was that SA NGSs increasingly started offering 18-month Foundation programs. Prior to 2018 it was clear that these children could not be included in schools’ census returns in the year they commenced. In 2018 changes were made to the legislative and policy framework which led schools and departmental staff to believe that these children could now be reported as Foundation students in both the year they commenced and the following year.

Pre-2018 legislative framework

Prior to 2018 the key eligibility criteria were set out in section 7(6) of the Act (emphasis added):

A student receives primary education or secondary education at a school on the school’s census day for a year if:

- (a) the student is enrolled at the school on that day; and*
- (b) either:*

- (i) the student **attends the school on a daily basis in the 4-week period that ends on that day** (excluding school holidays); or
- (ii) the Minister determines under subsection 10(2) that the student is a person who receives primary education or secondary education at the school.

The legislation was supplemented by an online *Guide to the Australian Education Act 2013* that was published by the department in 2017. Section D2.1.2 (Which students should be reported in the census?)³ stated (emphasis added):

Eligible students to be reported in the census are those students who:

- a. *are enrolled and participating in a level of education that constitutes primary education or secondary education and who attend schooling on a daily basis, and*
- b. ***are in attendance for at least one day in the census reference period (including census day) and who regularly attend school...***

The following types of students should not be reported in the census...

- c. *students who are not participating in primary or secondary education in the formal years of schooling...*
- f. *students in Year 1 minus 2*
- g. ***students in their Foundation Year (Year 1 minus 1) who will not be proceeding to Year 1 in Terms 1 or 2 of the following year...***

The department also issued annual guidelines to NGS setting out how to complete the census. The 2017 guidelines stated that:

A student in the Foundation (Year 1 – minus 1), the first year of formal schooling, is reported in the Census only if they meet the requirements of an eligible student and will progress to the second year of formal schooling (Year 1) in the first or second term of the following year.

Students falling within the definition in clause (g) above would be reported in the following year's census (when they repeated Foundation).

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Correspondence with Queensland Catholic Education Commission

In October 2016, the Executive Director of Queensland Catholic Education Commission queried the policy of not funding students who repeat Foundation. She noted that the definition of "Foundation" in the Regulations did not exclude students who repeat Foundation and that these students otherwise met the eligibility requirements in the Act. She concluded:

While on an annual basis only a relatively small number of students are denied funding support, this clearly inequitable treatment of young children needing additional help when starting out their schooling should be addressed.

The department prepared two Ministerial briefs (MC16-007040 in October 2016 and MS17-001723 in early 2017). MC16-007040 noted that:

The rule was introduced to address risk factors operating in the early years of schooling whereby children could be mistakenly reported in the census when they are actually ineligible for recurrent school funding.

³ Source: [13 Nov 2017 - aeguide.education.gov.au/content/d212-which-students-should-be-reported-census - Trove \(nla.gov.au\)](https://www.aeguide.education.gov.au/content/d212-which-students-should-be-reported-census - Trove (nla.gov.au))

These risk factors include jurisdictions offering continuous enrolment or several enrolment dates for the foundation year in which children may spend up to two years; the relatively high number of schools offering mixed aged (three-six years) classrooms under various models of pedagogy, including Rudolf Steiner and Montessori Education; and schools providing co-located Early Learning Centres, pre-school arrangements or childcare on school grounds.

MS17-001723 noted that (order of paragraphs changed):

Since at least 1998 it has been the department's policy that students in Foundation Year can only be reported in the census if they are expected to progress to the second year of formal schooling (Year 1) in term one or two of the following year.

The practice was intended to ensure students do not enrol without a reasonable likelihood of progress into Year 1 in the following year.

The practice was intended to maintain a distinct line between preschool and school, avoid encouraging schools to enrol students too early, and prevent cost-shifting or double funding of students who attend state funded preschool or childcare.

[The department audited 172 non-government primary schools in 2015.] The department found 52 students in 24 schools were incorrectly reported in the census as a direct result of the policy, which amounts to approximately \$420,000 in overpayments. Sixteen of the students identified were in a single Steiner school.

[In 2016] 1599 Foundation Year students were reported across 94 Montessori/ Steiner schools nationally. There were 93 four year old students (as at 1 July) in these counts. This compares with 1546 Year 1 students, of which 51 were five years old.

However, it acknowledged that there was no legislative basis for treating students who repeated Foundation differently from other repeating students.

The current practice is based on an interpretation of section 4 of the Regulations. Under this, 'Foundation' is defined as 'the year of schooling immediately before Year 1.' The practice considered that any student who does not progress to Year 1 in the following year as not being a Foundation Year student. s 42

s 42

The department recommended that the practice of excluding repeating Foundation students be discontinued. It advised the Minister (MS17-001723) that:

[The change would only] result in a minor increase in estimated recurrent grant funding in future program years. The increase is difficult to estimate given the lack of data on the number of students affected by the current practice...

The QCEC advised approximately 150 students repeat Foundation Year in their schools. Extrapolating this sample nationally, the department estimates national payments in 2017 could increase by around \$8 million.

In conclusion, the briefs to the then Minister about the 2018 changes specifically highlighted the risks of both MYI and multi-year programs. However, these risks were not effectively communicated, monitored or controlled.

2018 changes to the policy and legislative framework

In 2018 the eligibility requirements were moved from the Act to the Regulations.⁴ Regulation 9B(1) states:

[T]he number of students at a non-government school (the school’s census day enrolment) for a year is the number of primary and secondary students:

- (a) who are enrolled at the school on the census day for the school for the year; and*
- (b) whose enrolment is for education at a level specified for the school in the approval of the approved authority for the school; and*
- (c) who have a pattern of regular attendance at the school, or at school generally, during the year; and*
- (d) whose attendance is, for at least one day during the census reference period for the school for the year:*
 - (i) at a location specified for the school in the approval of the approved authority for the school; or*
 - (ii) as a distance education student.*

The department ceased publishing the online *Guide to the Australian Education Act 2013* at the end of 2017. It also updated the *2018 Non-government Schools Census Guidelines* to remove the following paragraph:

A student in the Foundation (Year 1 – minus 1), the first year of formal schooling, is reported in the Census only if they meet the requirements of an eligible student and will progress to the second year of formal schooling (Year 1) in the first or second term of the following year.

The following table highlights the key differences between the pre-2018 wording and the 2018 wording. In short, the new regulations incorporated the more flexible attendance requirements that had previously existed only in guidance material. The regulations do not define a “pattern of regular attendance”.

	Pre 2018 wording	2018 wording
Legislative framework	<p><i>enrolled on [census day]</i></p> <p><i>attends the school on a daily basis in the 4-week period that ends on [census day] (excluding school holidays)</i></p>	<p><i>enrolled on census day</i></p> <p><i>[has] a pattern of regular attendance at the school, or at school generally, during the year</i></p> <p><i>[attends] for at least one day during the census reference period for the school for the year</i></p>
Online guide	<p><i>Eligible students to be reported in the census are those students who:</i></p> <p><i>a. are enrolled and participating in a level of education that constitutes primary education or secondary education and who attend schooling on a daily basis, and</i></p> <p><i>b. are in attendance for at least one day in the census reference period (including census day) and who regularly attend school...</i></p> <p><i>The following types of students should not be reported in the census...</i></p> <p><i>g. students in their Foundation Year (Year 1 minus 1) who will not be proceeding to Year 1 in Terms 1 or 2 of the following year...</i></p>	[No longer published]

⁴ Australian Education Amendment Act 2017 and Australian Education Amendment (2017 Measures No. 2) Regulations 2017

The census reference period is “the period of 20 school days for the school that ends at the end of the census day for the school for the year” (Regulation 5(6)). This means if, for example, the mid-year break is from Monday 10 July to Friday 21 July 2023, the census reference period will be the last two weeks of Term 2 and the first two weeks of Term 3.

Students who start school in Term 3 will usually be enrolled on census date (first Friday in August). However, they will have only started school part way through the census reference period (being the 4 school weeks ending on census date). Accordingly, there is a question as to whether they would have satisfied the requirements of the pre-2018 legislation that students attend the school “on a daily basis” in the reference period. This test was removed in 2018.

2018 change to the structure of South Australian primary schools

The Regulations were also amended in 2018 to bring the structure of the SA school system in line with the other jurisdictions. Prior to 2018 SA primary schools were funded for up to eight years of school (as year 7 was part of primary school).⁵ From 1 January 2018, year 7 became the first year of secondary school.

If there was no change in the underlying population, some SA primary school principals may have been faced with empty classrooms in 2018. Until 2014 SA Government schools offered multiple intakes to Reception so the concept of mid-year intakes was something that SA teachers and parents were familiar with.

During 2018 Catholic and independent schools both sought confirmation from the department that, because of the removal of the prohibition (on claiming for Foundation students who were not expected to proceed), MYI Foundation students could now be reported in the census in the year they commenced. The advice provided by the department is discussed in the next section.

In September 2018 Catholic Education South Australia (**CESA**) confirmed with the Group Manager of the department’s Schools Funding and Assurance Group that the revised approach would continue in 2019. In November 2018 CESA widely publicised (including on ABC radio) its intention to expand MYI to all Catholic schools. In 2021 CESA removed fees for MYI students. The details of the program (including that children are likely to be in Foundation for 18 months) are readily available on CESA’s website:⁶

Most Catholic schools offer two intakes per year for children starting Reception.

Term 1 enrolment – for children who turn five years on or before April 30.

Term 3 enrolment (Mid-Year intake) - for children who turn five years on or before October 31... Students who start in Term 3 are likely to spend 18 months in Reception before progressing to Year 1...

Reception students who join a mid-year intake at a Catholic school will get free tuition in Terms 3 and 4 of that year.

In summary, the key cause of the 18-month Foundation issue was the decision to remove a non-legislative prohibition (policy directive) on reporting individual students who were likely to repeat Foundation. This may have been compounded by changes in the legislative test for eligibility and the reduction in the number of years in South Australian primary schools. These changes all occurred in 2018.

⁵ Prior to 2018 Regulation 7(1) prescribed the level of education that constitutes primary education for a school (other than a special school) as Foundation to Year 7 in SA and Foundation to Year 6 in all other States and Territories.

⁶ Source: [Catholic Education South Australia | Mid-Year Intake \(cesa.catholic.edu.au\)](https://www.cesa.catholic.edu.au/mid-year-intake)

B. Any circumstances that may have contributed to the non-compliance and the delayed detection by the department

Recording and monitoring of known risks

The 2016 and 2017 briefs to the Minister noted that the previous prohibition policy was intended to ensure that “students do not enrol without a reasonable likelihood of progress into Year 1 in the following year”. It also flagged the following risks:

jurisdictions offering continuous enrolment or several enrolment dates for the foundation year in which children may spend up to two years [in foundation],

schools offering mixed aged (three-six years) classrooms under various models of pedagogy, including Rudolf Steiner and Montessori Education,

schools providing co-located Early Learning Centres, pre-school arrangements or childcare on school grounds,

encouraging schools to enrol students too early, and

cost-shifting or double funding of students who attend state funded preschool or childcare.

These risks were not recorded in a risk register and there is no evidence they were considered in the drafting of the updated Regulations. It appears that the department did not alert its schools funding assurance area of these risks or set up any mechanism for monitoring or measuring the impact of the change.

There is also no evidence that the department recorded or monitored any risks associated with change in school structures that occurred in 2018. As noted above, SA was the last jurisdiction to shift Year 7 from primary school to secondary school. Primary schools across the sector would have been facing empty classrooms.

Correspondence with South Australian schools during 2018

As noted in earlier sections, the eligibility framework was amended in 2018 to remove the following restriction:

A student in the Foundation (Year 1 – minus 1), the first year of formal schooling, is reported in the Census only if they meet the requirements of an eligible student and will progress to the second year of formal schooling (Year 1) in the first or second term of the following year.

In response to this, Catholic and independent schools both sought confirmation from the Department that MYI Foundation students could now be reported in the census.

In July 2018 a representative of the Association of Independent Schools of South Australia (AISSA) emailed the Department’s help line to confirm that, because of this deletion, students who start Foundation mid-year would now be counted. Her email reads (emphasis added):

Mid Year Intake – Students Year 1 minus 1

*The Census Guidelines used to specifically state that in regard to Foundation (Year 1 minus 1) students they could only be included on the census if they would go onto Year 1 in either terms 1 or 2 of the following year. In South Australia there are a number of schools which have a mid-year intake for Reception (Foundation) students. These students participate in a full-time regular Reception curriculum. In regard to **some mid-year Reception students they will then undertake a further***

twelve months of Reception the following year. Provided the students meet all other eligibility requirements can these students now be included in the census?

The department provided a generic response. In August 2018 the representative sent a follow up email:

We have had a query from one of our schools who received the attached notification in regard to including Year 1 minus 1 students who are not yet aged five in the Census.

The department advised that, so long as the students met the requirements, the school could ignore the 'students out of age range' warning.

The department received a similar query (also in August 2018) from CESA. The department used the same heading as its previous response.

Mid Year Intake – Students Year 1minus1

You requested confirmation re, including Year 1 minus 1 students in the census, given the guidelines no longer requires they must be going up to year 1 in either terms one or two of the following year.

It reiterated that, for the 2018 census, provided the students otherwise met the requirements, they could be reported in the census and the school would receive funding for them. CESA's Senior Finance Manager sent a follow up email to the acting Deputy Secretary in September 2018 seeking confirmation that "this arrangement will continue into 2019 and beyond". The Group Manager confirmed that:

Mid Year Intake – Students Year 1minus1

From the 2018 census onwards, Year 1 minus 1 students are being treated the same way as all other students. Specifically they can be counted even if they repeat the year. The previous rule has been removed from the census guidelines this year.

As a result, any students counted in the census, including Year 1 minus 1 students, will attract funding.

This will continue in 2019.

In its *Lessons Learned and Business Improvement Plan (24 October 2023)*, the Department concludes that:

Based on the emails and responses, it is assumed that the South Australian sector also believed mid-year intake foundation students were eligible to be included in the census in the first 6 months of an 18-month foundation program, thereby attracting 2 years of recurrent funding for foundation.

Media articles about mid-year intakes

South Australian non-government school representative groups have openly advertised and promoted the fact that their schools offered mid-year intakes for reception students. In November 2018 the ABC News published the following article:⁷

Catholic schools eye mid-year intake plans in shift from SA public education policy

All Catholic schools across South Australia could soon be offering mid-year intake for reception students who turn five on or before October 31.

Catholic Education South Australia (CESA) has asked all its schools to explore the provision, despite the public education system choosing in 2014 to have just one intake date at the start of the year...

⁷ [Catholic schools eye mid-year intake plans in shift from SA public education policy - ABC News](#)

Some Catholic schools are already providing mid-year intake, which often results in students who start in term three spending 18 months in reception before progressing to year one.

“There will be some exceptions because it really does depend on what’s in the best interests for that child,” Mr Viececi said.

He said the intention was for individual students starting halfway through the year to be assessed whether they can go onwards to year one at the end of just two terms, or undertake another four terms of reception...

SA Primary Principals Association president Angela Falkenberg said the public system abandoned the concept of multiple intakes in 2014 for just one intake at the start of the year...

Mr Viececi said CESA saw it as an early opportunity to establish a relationship between the school, the child, the home and their community...

CESA published an article about the news story on their website.⁸

In April 2019, CESA advised parents that most Catholic schools would be offering a mid-year entry to students who turned five before 1 November.⁹

Mid-year start for Receptions

Many Catholic schools across South Australia are now offering a mid-year Reception enrolment intake for students who turn five on or before October 31...

Children can begin in Term 3 if their fifth birthday is before October 31...

Some Catholic schools are already providing the mid-year intake. Students who start in Term 3 are likely to spend 18 months in Reception before progressing to Year 1.

CESA published a further article promoting the change in August 2019.¹⁰

SA’s youngest students are receiving high-quality early learning and care experiences through the mid-year Reception intake

... Sheena and Noah are one of 17 families joining the mid-year Reception intake at Star of the Sea School in Henley Beach...

Most Catholic primary schools now offer a mid-year intake for children who turn five years old on or before October 31, and many preschools are also offering a mid-year start to meet the needs of children and families...

Students who start in Term 3 are likely to spend 18 months in Reception before progressing to Year 1...

In April 2021 CESA announced that Reception students who join a 2021 mid-year intake at a Catholic school will get free tuition in Terms 3 and 4.¹¹

All Diocesan schools will offer the 2021 Term 3 Reception intake to parents free of charge. The free intake will include tuition fees and compulsory charges. It will exclude uniforms and extra-curricular costs.

The South Australian Commission for Catholic Schools is also encouraging separately governed schools to offer the tuition waiver.

In February 2022 the Labor party announced that, if elected, they would introduce a mid-year intake for government schools. The mid-year intake for preschools commenced in 2023. The mid-year intake for reception is scheduled to commence in 2024.¹²

⁸ [Catholic schools explore mid-year start \(cesa.catholic.edu.au\)](https://cesa.catholic.edu.au)

⁹ [Mid-year start for Receptions \(cesa.catholic.edu.au\)](https://cesa.catholic.edu.au)

¹⁰ [A solid foundation \(cesa.catholic.edu.au\)](https://cesa.catholic.edu.au)

¹¹ [2021 Mid Year Intake – Free Tuition \(cesa.catholic.edu.au\)](https://cesa.catholic.edu.au)

¹² [Starting school \(education.sa.gov.au\)](https://education.sa.gov.au)

Government primary schools have 2 major enrolment intakes from 2024, one for children at the beginning of the year (intake 1) and one for children to start school in term 3 (intake 2).

If your child turns 5 years old:

- *before 1 May they can start reception in term 1 of that year.*
- *between 1 May and 31 October, they can start reception in term 3 (mid-year).*
- *after 31 October they can start reception in the following year.*

Children who start reception at the beginning of the year will generally complete 4 terms of reception, while children who start reception through the mid-year intake will complete 6 terms of reception.

Considering the above, it would be difficult to maintain that the department was unaware that South Australian non-government schools were offering mid-year intakes. Rather, available evidence suggests that departmental staff with responsibility for assuring the accuracy of non-government school census returns were unaware that MYI students were not eligible for recurrent funding and should not be included in the census returns of non-government schools.

Awareness of staff assuring the accuracy of non-government school census returns

The 2022 census data for South Australia contains 41 instances where schools had expressly advised that the reason why their year 1 figures were substantially lower (less than 70%) than their foundation figures for the previous year was that they have a mid-year intake. This information was not escalated to more senior staff until after payments had been made.

In its *Lessons Learned and Business Improvement Plan (24 October 2023)*, the department concluded that until 2022 s 42 staff processing the census returns believed that mid-year intake Foundation students were eligible for inclusion in the census:

The emails from 2018 suggest staff considered mid-year intake foundation students returning for a full year of foundation the following year, as repeating foundation and therefore eligible. Based on this understanding, the explanation that these schools provided about delivering a mid-year intake foundation program was considered acceptable.

In summary, the key factors that contributed to the non-compliance by SA NGS, and the delayed detection by the department, were:

- ineffective communication of identified risks associated with the 2018 amendments to the legislative and policy framework to departmental staff responsible for processing and assurance, and
- consequent lack of awareness amongst these staff that this practice was non-compliant and resulting in payments inconsistent with the Act.

This lack of awareness resulted in:

- ambiguous advice to school representatives for both Catholic and Independent schools, and
- the department approving census returns for schools that expressly stated that they had included MYI Foundation students who had commenced at the school in Term 3.

C. Approved authorities' awareness of their obligations

South Australian Catholic and Independent schools (MYI Foundation students)

In its *Lessons Learned and Business Improvement Plan (24 October 2023)*, the Department concluded:

Based on the emails and responses, it is assumed that the South Australian sector also believed mid-year intake foundation students were eligible to be included in the census in the first 6 months of an 18-month foundation program, thereby attracting 2 years of recurrent funding for foundation.

Based on examination of available departmental communications and discussions with staff, the Review concurs with this assessment: South Australian non-government Approved Authorities understood their obligations to report accurate census data but believed that MYI Foundation students were eligible to be included in the census.

This belief was reinforced by multiple emails from the department affirming that students repeating Foundation were eligible. Many schools expressly advised the department (in their census returns) that the reason they had 4-year-old students and/or disproportionately large Foundation enrolments (compared with Year 1) was that their Foundation “year” included children who had just commenced an 18-month program. Schools (particularly in the Catholic sector) openly advertised their 18-month Foundation programs, including offering the first 6 months free. There was also extensive media coverage (including on the ABC) about mid-year takes being reintroduced in South Australian schools.

After it became aware of the issue, the department drafted a Fact Sheet drawing a distinction between individual students who repeat Foundation (who are eligible in both years) and students who enrol in an 18-month program (who are only eligible the following year). It advised that:

*The Regulation defines ‘foundation’ as ‘the **year** of schooling immediately before year 1’, as a result foundation is defined as a ‘**year**’ or 12 months of schooling. Therefore, students who participate in a foundation program that extends for more than 12 months can only attract recurrent funding for a single year (which is the year immediately before year 1).*

All three South Australian school sectors (government, catholic and independent) wrote to the Minister, raising concerns about the “change” in policy. The South Australian Government was particularly concerned about the capacity of government schools to absorb additional students (given that it had committed to introduce a mid-year intake in 2024).

The Minister’s response emphasised that there was no change in policy. It also stated that:

The [Act] provides for one year of recurrent funding for foundation year as defined in the [Regulations]. The Regulations defines foundation as the year (defined as a calendar year under the Act) of schooling immediately before year 1.

CESA and AISSA formally challenged the letter on the basis that:

- The definition of “year” in section 6 of the Act expressly does not apply to references to “a year in a course of primary education or secondary education”.
- MYI students are enrolled in “a year in a course of primary education”, being “Foundation year” on the census date.

MYI students also meet the other requirements of Regulation 9B as they:

- (c) have a pattern of regular attendance at the school, or at school generally, during the year; and

(d) attend for at least one day during the (four week) census reference period.

s 42

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After this funding was secured, SA NGS:

- revised their 2023 census data to exclude MYI Foundation students, and
- provided separate data in relation to MYI Foundation enrolments.

As noted earlier, the number of Foundation students reported (in the census) returned to levels that are closely aligned with Year 1 enrolments.

The department's intention is that this equivalent payment apply in 2023 only and that MYI Foundation enrolments are not funded in future years. CESA wrote to the Minister on 31 October 2023 noting that:

The South Australian Commission for Catholic Schools maintains the view that the mid-year Reception program is an integral part of ensuring equity of access to formal schooling for all children when they reach the school starting age and is especially important for those children in specific groups and/or regions who have had little or no preschool experience.

With this in mind, we will seek further dialogue with both the South Australian Government and the Australian Government about funding options in 2024 and beyond.

If funding for 2024 is not provided, there is a risk that SA NSG will again challenge the department's interpretation of the eligibility requirements.

Other schools (across Australia)

The Review found there are a small number of Montessori and Steiner Schools that appear to be including MYI and/or multi-year Foundation program students in their census returns. s 42

The Fact Sheet issued to all schools states that:

The Regulation defines 'foundation' as 'the year of schooling immediately before year 1'. As a result foundation is defined as a 'year' or 12 months of schooling. Therefore, students who participate in a foundation program that extends for more than 12 months can only attract recurrent funding for a single year (which is the year immediately before year 1).

The Fact Sheet gives the following example of a student who would not be eligible for funding:

A student is enrolled in a mid-year intake foundation program at the start of term 3 commencing an 18-month program which finishes in December the following year. The student can not be reported in the Census for the first 6 months of the foundation program. The student is eligible to be reported in the Census for the year immediately before year 1 (the second year).

The Fact Sheet also sets out a scenario where a student will be eligible for funding for more than one year of Foundation:

Students who repeat foundation year of schooling can attract recurrent funding for the repeated year of schooling...

*A student is enrolled in foundation at the beginning of the school year in a 12 month 'year' of schooling that finishes in December of the same year. A decision is made that the student will repeat the same year of schooling. **This student is eligible to attract a second year of foundation recurrent funding and can be reported in the Census for both years.***

The Review's understanding is that this example is intended to confirm that (as per the 2018 change in policy) individual students who repeat Foundation are treated no differently from students who repeat any other year of schooling. However, it may be misread as allowing cohorts of Foundation students who "repeat" to be reported in multiple years.

The Review has analysed census data for 70 Montessori and Steiner schools across Australia. As noted in the 2016 and 2017 briefs, these schools offer multi-year programs. For example, Montessori schools have three stages – Stage 1 (ages 3-6), Stage 2 (ages 6-9) and Stage 3 (ages 9 to 12).¹³ Stage 2 corresponds to Years 1 to 3. Stage 3 corresponds to Years 4 to 6.

Schools may offer continuous enrolments whereby students start Stage 1 as soon as they turn 3. These students will be in a classroom with a qualified teacher and students aged up to 6 years old. If the school is reporting correctly, students in Stage 1 will only be reported (as Foundation students) in their last year of Stage 1. By this time, these students will be 5-years old. The following year they will turn 6 and move to Stage 2 (Years 1 to 3).

However, the data suggests that some schools are reporting students as Foundation students in more than one year. They may (incorrectly) believe that, because 4-year-old students are undertaking a full 12-month program in the same classroom as 5-year-old students, they can be included in the census. These 4-year-old students will "repeat" Foundation the following year as the school has decided that they cannot move to Stage 2 until they turn 6. There could also be scenarios where schools are applying the same logic to 3-year-old students.

The Review recommends the department:

- revise the Fact Sheet to ensure schools offering mixed-age Foundation programs (such as those offered by Montessori schools) understand students should only be included in the census for 1 year of Foundation, and
- review any instances of Montessori or Steiner schools reporting 3-year-olds or 4-year-olds.

The department has advised that it plans to conduct a targeted communication campaign to all Montessori and Steiner schools to ensure these schools are aware that multi-year Foundation students are not "repeat Foundation students" and should not be included in the census. The Review supports this proposed targeted communications campaign as it is likely that, as with the mid-year intake issue, a significant proportion of this low incidence¹⁴ non-compliance is due to lack of awareness of this requirement amongst Montessori and Steiner schools.

s 47E(d)

¹³ Source: [Montessori Programmes | Montessori Australia](#)

¹⁴ The Review notes that most of the Montessori and Steiner schools that it examined did not report 4-year-old Foundation students.

D. The implications of payments that have been provided to affected schools previously

If the Minister is satisfied that the Commonwealth has made an overpayment under the Act, the Minister has the discretionary power under section 110(1) of the Act to recover the amount of the overpayment. The Minister has delegated this power to, amongst others, the Secretary (Instrument No. 23-017).

The First Assistant Secretary of Payments and Collections recommended (on 8 November 2023) the Secretary not take recovery action against SA NGS that received two years of recurrent funding for providing 18-month Foundation programs. The Secretary agreed.

The brief to the Secretary notes that the Department had previously advised the Minister (MS23-000160) that it was not seeking recovery from the schools because:

- There are practical difficulties in quantifying potential overpayments. Past census data does not have the level of student detail required and therefore this data would need to be collected from schools. Schools may not be able to provide the required data and there is a disincentive to do so, as it would result in a debt.
- There would be a significant administrative burden on schools. The entire school sector would need to be surveyed on intake students, going back to 2018. However even then, the department could not be confident any data provided is accurate.
- Raising debts spanning a five-year historical period may result in financial viability issues for some schools. With any school, financial implications would impact current and future students, not the students that benefited from the 2 years of funding for the program.

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E. Any evidence that this issue may be present in other jurisdictions warranting further investigation

In its *Lessons Learned and Business Improvement Plan* (24 October 2023), the department concluded that:

Taken together, the data suggests that the practice of having students begin mid-year entry in July is not widespread and is currently limited to the non-government sector in South Australia.

The department provided the Review with census data for Foundation and Year 1 enrolments data for the 2017 – 2023 and MYI data for SA NGS for 2023. This period was selected because:

- The legislative and policy framework changed in 2018.
- Prior to the 2023 census, the department issued the Fact Sheet stipulating that students commencing 18-month programs should not be reported in the census.
- The government decided that students commencing Foundation programs at SA NGS schools would be separately reported and funded for 2023 only. This data is referred to in the Review as MYI data.

Comparing Foundation and Year 1 enrolments across jurisdictions

The figures on the following pages show how many Foundation (**light blue**) and Year 1 (**orange**) enrolments¹⁵ each jurisdiction reported in each year. The students who were reported separately by SA schools are shown in **dark blue**. Figure 3 shows all non-government schools. Figure 4 shows Catholic schools. Figure 5 shows independent schools.

Figure 3 shows that:

- In 2017, SA total NGS Foundation enrolments were broadly in line with Year 1 enrolments. This is as expected as most Foundation students progress to Year 1 and so most schools tend to have similar sized Foundation and Year 1 cohorts. It was also in line with NGS schools in other States and Territories, which had similar total Foundation and Year 1 enrolment levels
- Over 2018 through 2022, SA total NGS Foundation enrolments were significantly (and increasingly) higher than Year 1 enrolments. This is consistent with SA NGSs including MYI students in their census returns for two consecutive years. Over this period, SA was the only jurisdiction that reported Foundation enrolments that were significantly and consistently above Year 1 enrolments.
- In 2023 SA Foundation enrolments reported in the census (**light blue**) were in line Year 1 enrolments (**orange**) – consistent with SA 2017 census reporting and the census reporting of other jurisdictions. The total number of SA Foundation enrolments funded in 2023 (**light blue** plus **dark blue**) remained significantly higher than total Year 1 enrolments.

Figure 4 and Figure 5 show that both Catholic and Independent NGSs in SA reported:

- higher Foundation than Year 1 enrolments in their census returns over 2018–2022, and
- substantial numbers of 18-month MYI students in their separate return for 2023.

¹⁵ Enrolment statistics presented in Figure 3 through Figure 5 are based on Full Time Equivalent (FTE) enrolment data reported by NGSs in the 2017 – 2023 Census and SA NGSs in the 2023 MYI collection.

Figure 3: Non-Government School Foundation and Year 1 Enrolments (FTE), by State/Territory, 2017 – 2023

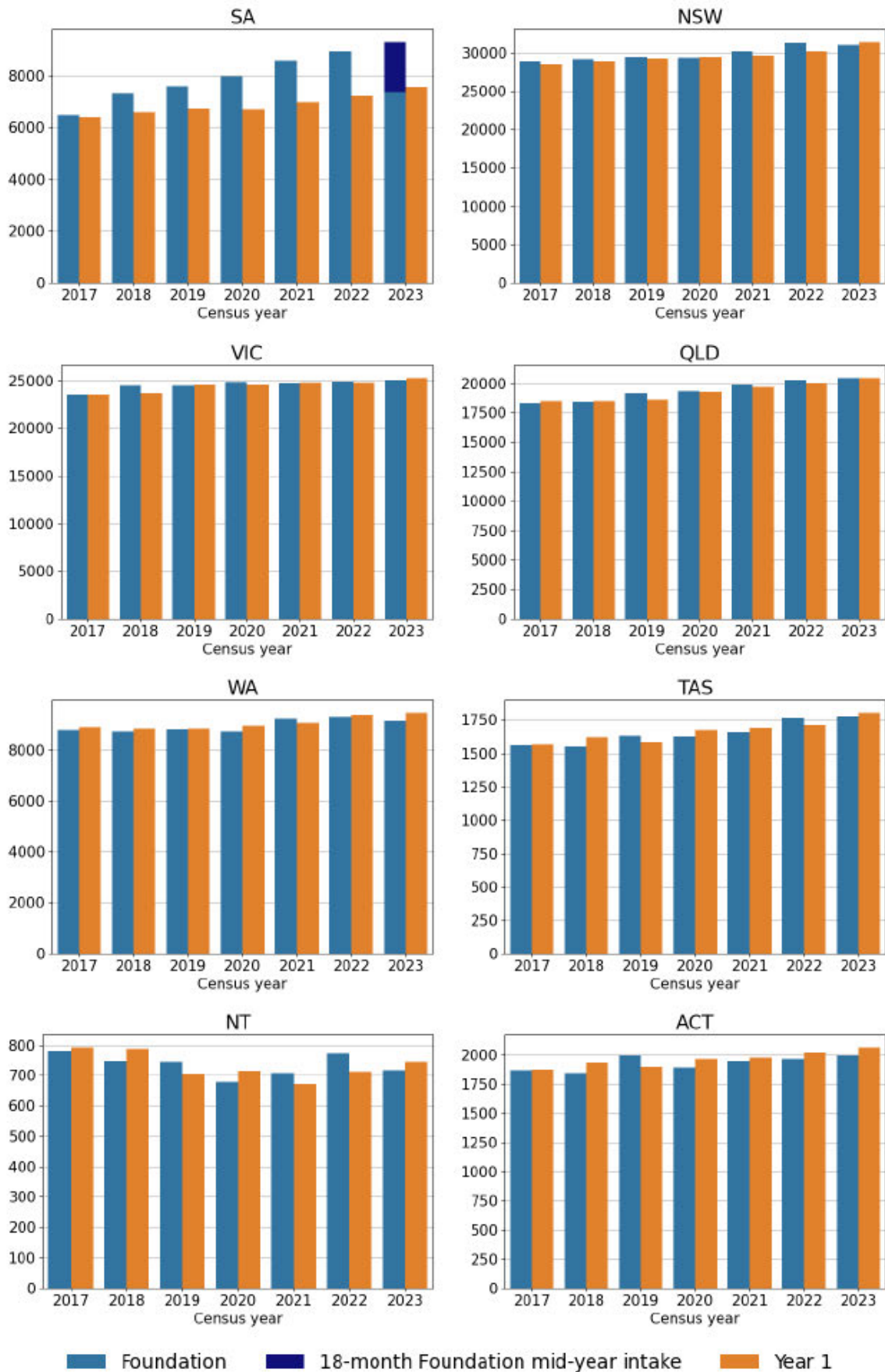


Figure 4: Catholic School Foundation and Year 1 Enrolments, by State/Territory, 2017 – 2023

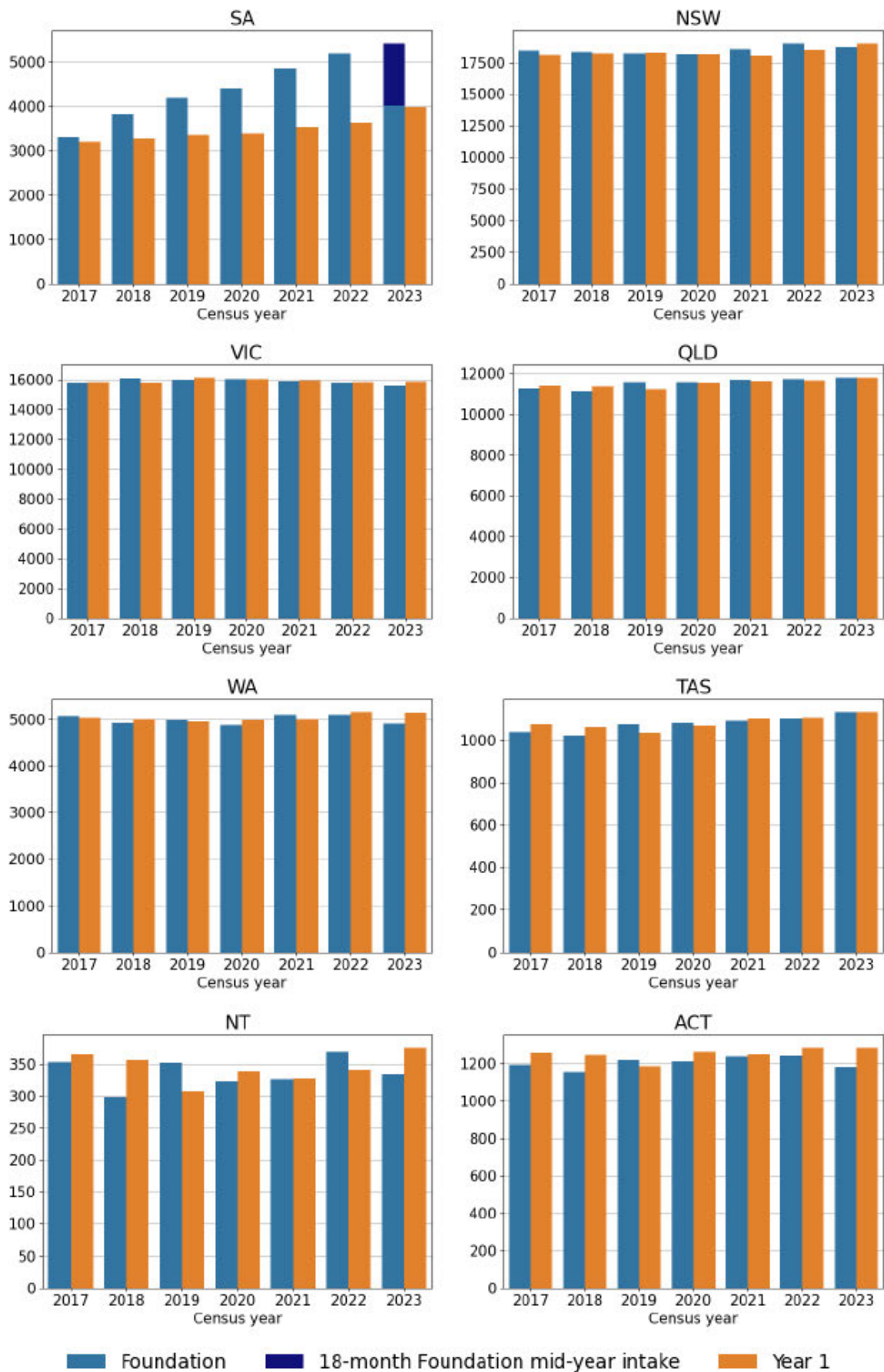
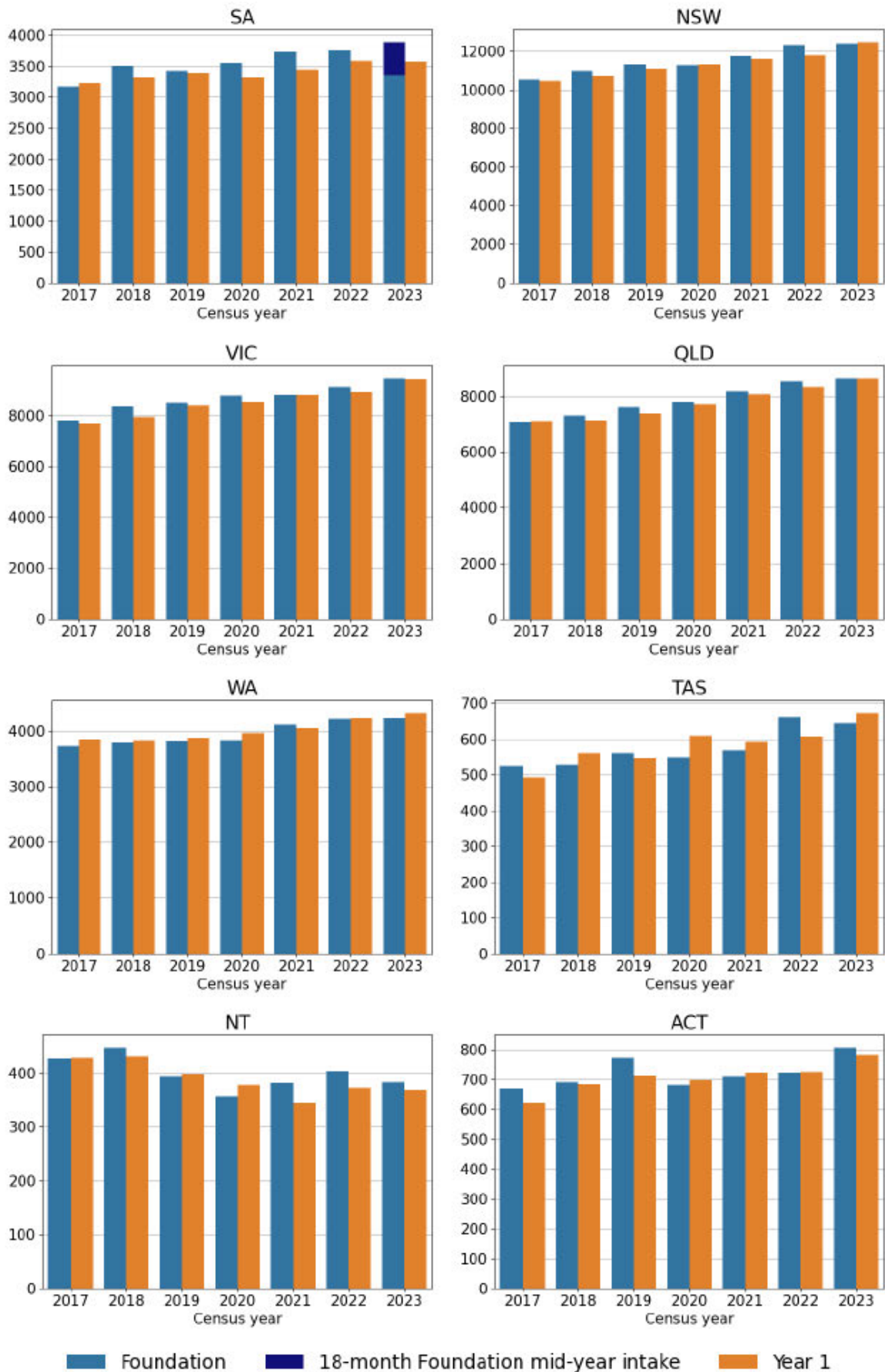


Figure 5: Independent Non-Government School Foundation and Year 1 Enrolments, by State/Territory, 2017 – 2023



Foundation-year enrolment age policies by jurisdictions

Across all jurisdictions, a child must be 5 years old before a specified cut-off date to start school in Term 1. Based on website information provided by Approved Authorities, Table 1 sets out the cut-off dates for each jurisdiction. South Australia is the only jurisdiction with multiple cut-off dates.

Table 1: Foundation-year enrolment age cut-offs by jurisdiction

Jurisdiction	Enrolment age cut-off date	Terminology ¹⁶	Comments
South Australia	1 May (for Term 1 start) 1 November (for Term 3 start)	Reception	Children must complete at least four terms of reception.
Victoria	30 April	Prep	Mandatory
New South Wales	31 July	Kindergarten	Mandatory
Queensland	30 June	Prep	Mandatory
Western Australia	30 June	Pre-primary	Mandatory
Tasmania	1 January	Prep	Mandatory
Australian Capital Territory	30 April	Kindergarten	Mandatory
Northern Territory	30 June	Transition	Transition is recommended, but not mandatory

Comparing the proportion of Foundation students who are 4 years old across jurisdictions

As noted above, except for NSW (which has a 31 July cut off), all jurisdictions require that a child starting Foundation in Term 1 be 5 years old as at 1 July (the date at which age is reported in the census). This means that very few¹⁷ Foundation students should still be 4 years old as at 1 July. By contrast, if a school offers a MYI Foundation program, around 20% of the students in Foundation could still be 4 years old as at 1 July.

For example, in SA NGS children are eligible to commence the:

- 12-month Foundation program in Term 1 if they turn 5 on or before 1 May, and
- 18-month Foundation program in Term 3 if they turn 5 between 2 May and 30 October (inclusive).

If all children start Foundation as soon as they are eligible, the school's Foundation "year" will be made up of three approximately equal sized different groups.

- Group 1: Children who started in Term 1 (who should be reported in this year's census),
- Group 2: Children who started in Term 3 (who should not be reported in this year's census), and
- Group 3: Children who started Term 3 last year (who should be reported in this year's census, but not last year's census).

If the birthdays of Group 2 are evenly spread across 2 May through 30 October, then two-thirds of Group 2 (those born between 2 May and 30 October) will still be 4 years old as at 1 July. This

¹⁶ Australian Government (2021). *Parent resources for Foundation Year*. <https://www.learningpotential.gov.au/articles/parent-resources-for-Foundation-year>.

¹⁷ Possible exceptions are NSW children born in July and gifted and talented students who are allowed to enroll in Foundation early.

means that, across all Foundation students (Groups 1 through 3), approximately 22% (=33% x 67%) would still be 4 years old on 1 July.

Consequently, the proportion of Foundation students who are still 4 years old on 1 July serves as a good indicator of whether schools are including Foundation MYI students in their census returns:

- Schools (or school cohorts) reporting a low proportion of 4-year-olds are low risk, and
- Schools (or school cohorts) reporting a high proportion of 4-year-olds are high risk.

For each State/Territory, Table 2 shows the proportion of Foundation students who were reported to be 4 years old (as at 1 July) over the period 2017 – 2023. It shows that:

- In 2017, the proportion of 4-year-old Foundation students in all jurisdictions (including SA) was very low, ranging from 0.1% in VIC and TAS to 1.4% in QLD.
- In 2018, the proportion of 4-year-old Foundation students rose sharply in SA (to over 5%) but remained below 1% in all other jurisdictions.
- Between 2018 and 2022, the proportion of 4-year-old Foundation students in SA increased from around 5% to 10%, while generally remaining below 1% in other jurisdictions.
- In 2023, the proportion of 4-year-old Foundation students in SA reported in the census dropped to 0.3%. SA reported MYI students separately in exchange for separate funding. 55% of these students were 4 years old.
- The proportion of 4-year-old Foundation students in other jurisdictions was generally less than 1%. There were higher proportions in the ACT (3.6%) and the NT (3.5%).

Table 2: Proportion of Foundation Students reported to be 4 years old as at 1 July, 2017 – 2023

State/Territory	2017	2018	2019	2020	2021	2022	2023	2023 MYI (SA only)
ACT	0.2%	0.8%	0.1%	0.0%	0.0%	1.2%	3.6%	
NSW	1.0%	0.7%	0.9%	0.7%	1.0%	0.7%	0.8%	
NT	0.0%	0.0%	0.4%	0.4%	7.8%	1.7%	3.5%	
QLD	1.4%	0.8%	0.8%	0.6%	0.7%	0.6%	0.4%	
SA	0.7%	5.3%	7.8%	8.6%	10.5%	10.2%	0.3%	55.0%
TAS	0.1%	0.1%	0.1%	0.0%	0.1%	0.1%	0.0%	
VIC	0.1%	0.1%	0.1%	0.3%	0.1%	0.3%	0.2%	
WA	0.8%	0.8%	0.6%	0.7%	1.2%	1.3%	0.5%	
All States/Territories	0.8%	0.9%	1.2%	1.2%	1.6%	1.5%	0.5%	

Table 4 breaks the SA data down by sector. It is evident that both Catholic and Independent schools started enrolling 4-year-old children in Foundation in 2018. Both sectors appear to have ceased including MYI students in their census returns in 2023 (reporting, and being funded for, these separately in the manual MYI data collection process).

Table 3: Proportion of Foundation Students reported to be 4 years old as at 1 July, 2017 – 2023, South Australia by Sector

	2017	2018	2019	2020	2021	2022	2023	2023 MYI (SA only)
SA - Catholic	0.0%	6.8%	10.9%	11.3%	14.8%	13.5%	0.2%	57.8%
SA - Independent	1.4%	3.8%	4.0%	5.3%	4.8%	5.6%	0.4%	47.9%
SA - Total	0.7%	5.3%	7.8%	8.6%	10.5%	10.2%	0.3%	55.0%

In conclusion, analysis of both:

- the size of Foundation relative to the size of Year 1, and
- the proportion of Foundation students who are still 4 years old on 1 July,

indicates that:

- SA Catholic and Independent schools started including Foundation MYI students in their census returns in 2018 and only ceased doing so when the government agreed that these students would be separately reported and funded (for 2023 only), and
- there is little evidence of widespread inclusion of Foundation MYI students in other jurisdictions.

The Review undertook two further checks of 2018 to 2023 census data to identify whether schools outside South Australia may be reporting ineligible Foundation students in their census returns.

Targeted review of website information for a targeted sample of schools across jurisdictions

The department provided the Review with census data for Foundation and Year 1 enrolments data for the 2017 - 2023 and MYI data for SA NGS for 2023. Based on this data, the Review calculated 3 indicators to flag schools that had an increased likelihood of offering 18-month or multi-year Foundation programs:

Formula used for 2023	Threshold	Data	Comments
$\frac{2022 \text{ Foundation enrolments}}{2023 \text{ Year 1 enrolments}}$	> 130%	census data	This mirrors the WR-023 census warning flag, which flags Foundation cohorts that are 30% larger than the Year 1 cohort in the subsequent year. As this indicator is based on Foundation enrolments in the previous year, it does not provide a timely indicator of the risk that a school is offering 18-month or multi-year Foundation programs.
$\frac{2023 \text{ Foundation enrolments}}{2023 \text{ Year 1 enrolments}}$	> 130%	census data	This indicator is based on 2023 Foundation enrolments and provides a contemporaneous indicator of the risk that a school is offering 18-month or multi-year Foundation programs. For comparability with Indicator 1, the same threshold was used.
$\frac{2023 \text{ Foundation enrolments}}{2023 \text{ Year 1 enrolments}}$	> 130%	census & MYI data	This indicator is only relevant to SA schools.

During the period 2017 – 2023, hundreds of schools across Australia exceeded the threshold for one or more of these indicators. In the limited time available, the Review could only examine a sample of these schools. The Review checked the websites of 115 of these schools for evidence of 18-month Foundation programs. Table 4 (over page) shows that 16 of these schools were advertising 18-month Foundation programs on their website. One of these schools was in the Northern Territory. The others (15) were Catholic or Independent Schools in South Australia.

Given the targeted nature of the sample underpinning these website checks, the proportion of schools examined found to be advertising MYI should not be taken as being representative of individual sectors or jurisdictions. However, they are consistent with the previous findings that 18-month Foundation programs are concentrated in SA Catholic and Independent schools.

Table 4: Findings of website checks for Foundation Mid-Year Intakes (MYIs) of 115 schools with high Foundation: Year 1 enrolment ratios

Jurisdiction	Sector	Website examined	Advertised Foundation MYI
South Australia	Catholic	13	12
	Independent	6	3
Victoria	Catholic	26	0
	Independent	9	0
New South Wales	Catholic	15	0
	Independent	8	0
Queensland	Catholic	11	0
	Independent	3	0
Western Australia	Catholic	6	0
	Independent	7	0
Tasmania	Catholic	1	0
	Independent	3	0
Australian Capital Territory	Catholic	2	0
	Independent	2	0
Northern Territory	Catholic	1	0
	Independent	2	1
Total		115	16

Montessori and Steiner Schools

The one NT school identified as offering a Foundation MYI was a Montessori school. As noted in previous sections, the department's Ministerial briefs about the 2018 policy change highlighted multi-year programs at Montessori and Rudolf Steiner schools as a potential risk area.

The Review examined the census data of a sample of 36 Montessori schools and 34 Rudolf Steiner schools. These schools were selected purely on the basis that they had "Montessori" or "Steiner" in their names.

The Review identified potential issues with 7 of these schools (10% of sampled schools). The Review brought these schools to the department's attention. One of these schools had been identified by the department and were included on the PE register¹⁸ in 2023. The other schools were not on the department's radar.

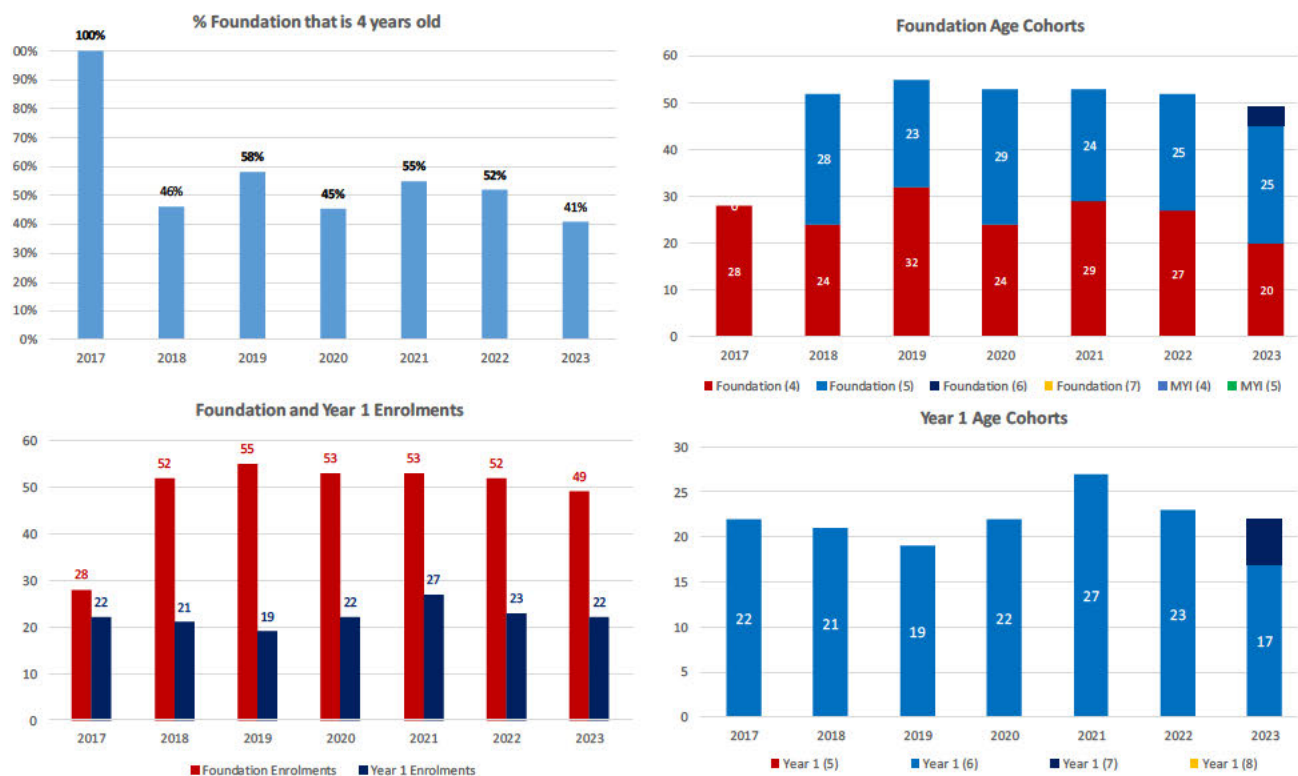
Jurisdiction	School	Red flags	Compliance activities
NT	Montessori	<p>Website states that it offers an 18-month Foundation program, a mixed aged (3 – 6-year-old) program, and a co-located early learning program.</p> <p>Foundation enrolments have exceeded Year 1 enrolments for the past 7 years.</p> <p>Reported 4-year-old Foundation students in 2022 and 2023 but has not reported any</p>	<p>s 37(2)(b)</p> <p>The department has confirmed this school offers an 18-month Foundation program and enrolment numbers have been corrected by the school and recurrent funding entitlements for 2023</p>

¹⁸ The Post Enumeration (PE) register is maintained by the School Approvals and Payments team. This register is used to identify schools that may be contacted as part of the census PE exercise. The purpose of the PE exercise is to validate whether the census information provided by schools is accurate, complete and reliable.

Jurisdiction	School	Red flags	Compliance activities
		5-year-old Year 1 students over 2017 to 2023.	and 2024 have been calculated based on updated enrolment figures.
WA	Montessori	<p>As illustrated in Figure 6, this school reported a substantial proportion of its Foundation enrolments were 4-year-olds (over 40%) in each of the past 7 years (2017 – 2023).</p> <p>Over the same period, it reported no (0%) 5-year-old Year 1 students. This means it is highly likely that these students are spending two consecutive years in Foundation.</p> <p>The number of 4-year-old Foundation enrolments reported in any year was typically around the same as the number of 5-year-old Foundation students reported in the following year. For example, 28 4-year-olds were reported in 2017 and 28 5-year-olds were reported in 2018.</p> <p>Foundation year enrolments were typically around double Year 1 enrolments.</p>	<p>A total of 184 4-year-old students were reported over 2017 – 2023. s 37(2)(b)</p> <p>The department will request this school to provide information about Foundation programs and enrolments to confirm if the school offers multiyear Foundation programs or not, and will take further compliance action accordingly.</p>
WA	Steiner	A high proportion of 4-year-old Foundation students were reported in 2021 – 2023 but no 5-year-old Year 1 students.	The department will request this school to provide information about Foundation programs and enrolments to confirm if the school offers multiyear Foundation programs or not and will take action accordingly.
WA	Montessori	Reported all Foundation students as 5 years old and all Year 1 as 6 years old. This is statistically unlikely and suggests the school is not reporting ages correctly.	The department will request this school to provide information about Foundation programs and enrolments to confirm if the school offers multiyear Foundation programs or not and will take further compliance action accordingly.
NSW	Steiner	<p>Reported 4-year-old Foundation students in 2020 and 2021 but no 5-year-old Year 1 in 2021 and 2022.</p> <p>Reported more Foundation students than Year 1 students in each year from 2017 – 2023.</p>	The department will request this school to provide information about Foundation programs and enrolments to confirm if the school offers multiyear Foundation programs or not and will take further compliance action accordingly.

Although the incidence may be low, the potential overpayments for individual schools that incorrectly report Foundation students across consecutive years can be significant. As noted above, the Montessori school in WA illustrated in Figure 6 (over page) claimed funding for a total of 184 4-year-old students and the funding associated with these students may be an overpayment.

Figure 6: Reported enrolments of WA Montessori school recommended for PE exercise



In conclusion, analysis of the census data of individual schools indicates that some Montessori and Rudolf Steiner schools in other jurisdictions have been including children attending mid-year and multi-year Foundation programs in their census returns. In some cases, schools have claimed funding for cohorts of 4-year-old children every year for the past 7 years.

This analysis was conducted in the limited time and resources available to the Review. More detailed data analysis may detect further issues.

Additional SA schools (2) identified by the Review using data analytics

As noted above, in 2023 SA NGS were advised to report students commencing 18-month programs separately in exchange for a one-off funding arrangement. The data shows that most schools revised their census data to exclude these children, with the proportion of 4-year-olds reported in the census dropping from over 10% in 2022 to less than 1% in 2023. However, there is some evidence that some SA schools may have misunderstood the new reporting requirements.

While conducting its work, the Review identified 2 South Australian schools that reported that 15% of their Foundation students in 2023 were 4-year-olds – indicating a high risk that these schools were still including MYI students in their census return. Moreover, one of these schools reported no (0%) 5-year-old Year 1 enrolments over 2017 – 2023, further suggesting that they reported 4-year-old Foundation students in the census for 2023 who were unlikely to progress to Year 1 in 2024.

Neither of these schools separately reported any MYI students in 2023. Accordingly, there is a risk they did not understand that they should report students commencing 18-month programs separately (in exchange for separate funding).

The department confirmed that it had already identified both these schools in the census baseline checking process and contacted them (by phone). The notes in the census return (recorded by the census officer) note that both schools were asked whether they had MYI students. Both confirmed (verbally) that they had not included any MYI students in their census returns for 2023.

The Review's understanding is that these two schools were not asked to confirm this in writing or to provide additional data. The department has advised that it now plans to use its statutory powers to require these two SA schools to provide records/ documents demonstrating that students are eligible. The department plans to undertake these reviews in February/March 2024.

The Review also identified (using data analytics) 2 South Australian schools that may have misunderstood the new reporting requirements.

While these schools had already been identified by the department (in the census baseline checking process), it provides a further illustration of the ability of data analytics to detect low-incidence non-compliance in individual schools that can then be followed up by the School Approvals and Payments Section either prior to or post payment.

F. Any mitigations that need to be put in place and lessons learned to ensure future payment integrity

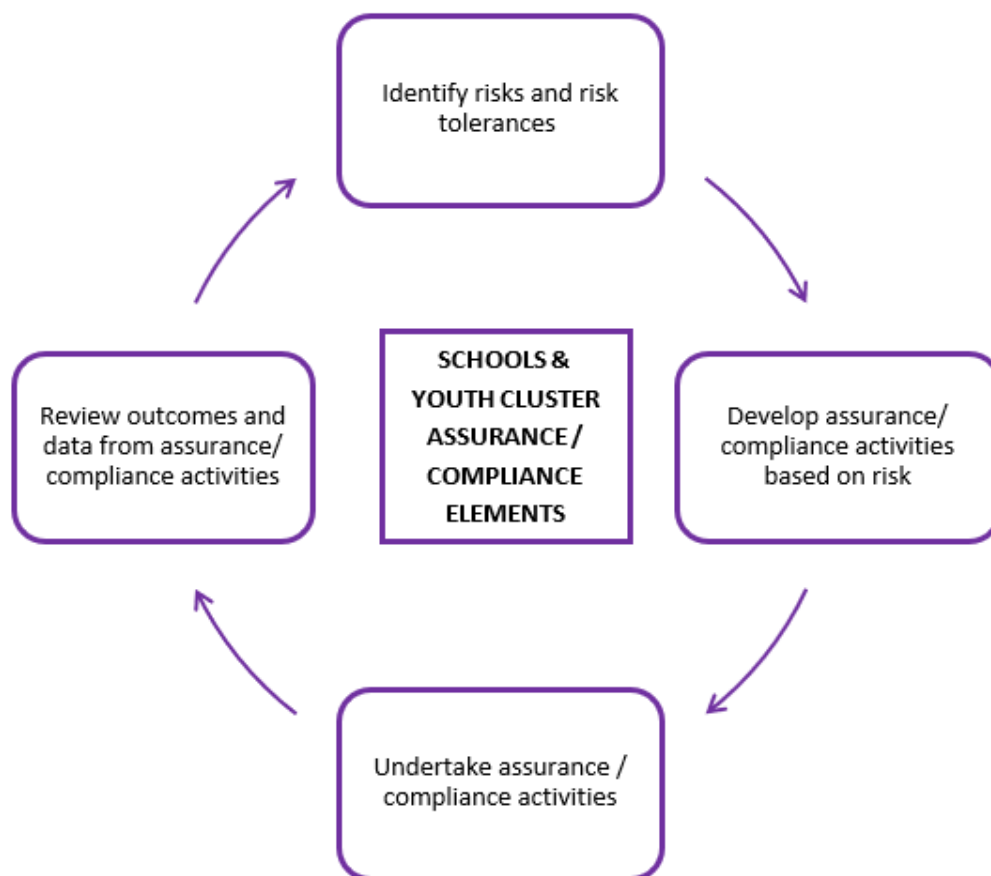
The department adopts a risk-based approach to managing non-compliance.¹⁹

Risk elements

The department recognises it has the primary responsibility for ensuring the accountability of the funding provided to Approved Authorities, and in the absence of scrutiny over the use of this funding, there is an unacceptable risk of funding being used in a manner inconsistent with the Australian Government’s objectives and the legislation.

However, it is not feasible to expend unlimited funds and resources monitoring Approved Authorities’ use of funding. A risk-based approach is critical to ensure assurance and compliance activities are sufficient but not excessive, cost effective, and appropriate to address the potential likelihood and consequences of identified risks.

The assurance and compliance framework is based on principles of effective risk management outlined in the International Organization for Standardization’s standard *ISO 31000:2018: Risk Management*, and the Department of Finance’s Commonwealth Risk Management Policy. For this assurance and compliance framework, the key elements for developing risk-based assurance and compliance activities are illustrated below:



¹⁹ Schools Funding Assurance Framework (v2.2 dated 22 January 2021), page 11.

The department's assurance framework recognises that non-compliance is often unintentional:

The results of assurance and compliance activities undertaken show that, in the main, Approved Authorities try to get it right, and where they do not, the errors are unintentional and due to lack of understanding of what is required or simple mistakes. For these Approved Authorities, education is an important tool in providing information that assists them to comply, and assurance and compliance processes that check for errors and incorrect classification are effective in remedying the innocent mistakes that happen from time to time...

The department's assurance, compliance and educational activities aim to move all Approved Authorities towards making a conscious decision to comply with their obligations in respect of the funding provided to them.

However, it also appreciates that there will always be a small number of funding recipients that are deliberately non-compliant:

[H]istorical observations show there are a small number of Approved Authorities who are either resistant to compliance or make a decision to intentionally not comply...

[The] department also needs to have assurance and compliance tools it can call upon where Approved Authorities are resistant to compliance or deliberately seek not to comply.

Schools have a significant financial incentive to include Foundation MYI students in their census return. Consequently, where there is evidence to suggest that schools may be inappropriately reporting, particularly for multiple students and/or over multiple years, the department should exercise professional skepticism when conducting assurance and compliance activities.

A "trust but verify" approach is required; schools that have a high risk of non-compliance and significant overpayments should be referred for more rigorous verification of their census data.

Lessons learned by the department

The department reviewed available departmental communications and analysed aggregate census data to identify any lessons learned from the MYI overpayments issue and potential business improvement processes. Its findings are documented in *18-month foundation – Lessons Learned and Business Improvement Plan (24 October 2023) (Lessons Learned)*. The *Lessons Learned* identifies six areas for potential improvement. In broad terms they relate to:

- strengthening census baseline checking,
- increasing the volume of census baseline checking, and
- increasing post census data analysis, including:
 - conducting a review of current *SchoolsHUB* warning rules (and thresholds), and
 - conducting high level aggregate census data analysis after the census data collection period each year.

Strengthening census baseline checking

When non-government schools complete the census, *SchoolsHUB* conducts several automated data validation checks. These validation checks include Warning Rules (reporting and compliance risk indicators) that require the school to correct or explain the anomaly. The responses provided by schools are reviewed by departmental staff reviewing and processing the census returns (census baseline checking).

As noted in the department's *Lessons Learned*,

s 37(2)(b)

s 37(2)(b)

s 37(2)(b)

Four of the school responses made a direct or indirect reference to MYI. For example:

[We] have a term 3 intake for the foundation year and a number of our students are only 4 as at 1st July.

In its *Lessons Learned*, the department noted the census responses were reviewed by staff in the School Approvals and Payments team and accepted to progress calculating the schools' annual funding entitlement. It concluded (emphasis added):

*Based on the advice provided in 2018 by the department via email to South Australian stakeholders (referred to above) **it appears the staff processing the census returns up until 2022** s 42 **were of the understanding mid-year intake foundation students were eligible for inclusion in the census.***

*Implementing the change in policy to allow repeating foundation students to be included from 2018 is likely to have contributed to this understanding. The emails from 2018 **suggest staff considered mid-year intake foundation students returning for a full year of foundation the following year, as repeating foundation and therefore eligible. Based on this understanding, the explanation that these schools provided about delivering a mid-year intake foundation program was considered acceptable.***

s 42

All ongoing staff processing the census have been fully briefed on this and the matter has been incorporated into the intensive training provided to non-ongoing staff.

Based on examination of available departmental communications and discussions with staff, the Review concludes that the root cause of the issue was ineffective communication between the

²⁰ In practice, there are very few Foundation students aged over 6 years old and so this indicator typically reflects the proportion of Foundation students who are under 5.

policy, payments and compliance/ assurance areas of the department in relation to monitoring and management of identified and emerging risks. Because of this, the specific risks associated with the 2018 changes relating to repeating Foundation students (i.e., non-compliant claiming of children participating in MYI or multi-year programs) were not identified in risk management plans associated with the recurrent funding of non-government schools.

The department acknowledges in its *Lessons Learned* that multiple schools expressly advised the department (in their census returns) that the reason they had 4-year-old students and/or disproportionately large Foundation enrolments (compared with Year 1) was that their Foundation “year” included children who had just commenced an 18-month program.

It also acknowledges that staff conducting pre-payment checks of census data were unaware that students commencing 18-month and multi-year programs were ineligible. As a result, non-compliances were not addressed, and significant overpayments were made over 2018 – 2022 in relation to ineligible students in South Australian non-government schools.

The department implemented two business improvements to strengthen the robustness of census baseline checking – in particular:

- conducting a sample-based “check the checker” process whereby senior staff review and provide feedback on a sample of review conducted by assessing officers, and
- undertaking regular moderation meetings between assessing officers and senior staff to discuss responses to warnings and appropriate follow-up of these.

Box 1: Business improvement process 1 (extract from department’s *Lessons Learned*)

Senior staff member to assess a sample of the reviews completed by each assessing officer (implemented in 2023)

Senior staff members to assess a sample of the reviews completed by each assessing officer.

Completion of an assessment of a sample of the reviews completed by each assessing officer, allowing senior staff to make an assessment of the quality of the original assessment, providing coaching to the staff member, if required, and identify any anomalies requiring further investigation.

The assessment will include consideration of the quality of the information the assessing officer documents in the case notes on the Customer Relationship Management (CRM)...

This practice will now be embedded in census processing going forward.

Box 2: Business improvement process 2 (extract from department’s *Lessons Learned*)

Regular moderation meetings – assessing officers and senior staff (implemented in 2023)

Regular moderation meetings between assessing officers and senior staff to share and discuss responses to warnings, assisting assessing officers better understand what constitutes appropriate responses to warnings...

Team leaders identified a number of current examples for discussion, outlining why responses to warnings were inadequate and the follow up questions the school should be asked.

Assessing officers reported to team leaders that they found the moderation meetings very helpful in increasing their understanding and confidence level in making decisions about the adequacy (or inadequacy) of responses from school to warnings.

This practice will now be embedded in census processing going forward.

Discussions with School Approvals and Payments Team staff indicate that both these initiatives were helpful and improved the robustness and consistency of census baseline checking activity. The Review therefore supports these practices being embedded in census baseline checking processes in future years.

However, the Review considers that more significant improvements in the effectiveness and efficiency of the census baseline checking process will be achieved through:

- integrating data analytics into assurance and compliance processes, and
- improving communication between the schools policy, payments and assurance areas of the department.

The department's *Lessons Learned* also considered whether there would be value in strengthening census baseline checks by requiring assessing officers to complete a report responding to multiple questions and documenting in detail the reasons they have reached the conclusion the responses provided by schools adequately address the warnings. It concluded that this would not be a cost-efficient use of assessor resources. The Review agrees.

Increasing the volume of Census baseline checking

In its *Lessons Learned*, the department considered whether it was possible to move the census date "to the start of Term 2" to allow more time for assessment and assurance of census returns. However, the department noted that changing the census date would require agreement from the states and territories through the Education Ministers' Meeting (EMM) and recommended this suggestion be referred to relevant policy teams for further consideration.

Box 3: Business improvement process 4 (extract from department's *Lessons Learned*)

Changing the census date from the first Friday in August (to be referred for consultation with all relevant policy teams)

Changing the census date from the first Friday in August to an earlier date in the year (around the start of term 2) would allow more time for assessment and assurance.

However, changing the census date would require agreement from the states and territories through the Education Ministers' Meeting (EMM).

It is understood reaching agreement with states and territories and non-government school stakeholders on the current census date was challenging, as there is no common time of the year across the different jurisdictions which best accurately captures enrolments for all jurisdictions.

It is recommended this suggestion is referred to relevant policy teams for further consideration.

The Review notes that changing the census date to Term 2 would make it far less likely that MYI students (who start in Term 3) will be reported in census returns – almost completely mitigating this risk. While this potential benefit is not flagged by the department in its *Lessons Learned*, the Review recognises that bringing the census date forward involves multiple policy and logistical issues and would require extensive internal and external consultation. Accordingly, while moving the census date to Term 2 would significantly mitigate the MYI risk, alternative mitigations are likely to be more practical and cost-effective.

Review of current Census warnings, including thresholds

The performance of a compliance risk indicator will be determined by:

- the extent to which the underlying risk metric correlates with the compliance issue it seeks to detect, and
- the threshold value used to distinguish between low- and high-risk schools:
 - if the threshold is too high, the risk indicator will often fail to flag non-compliant schools
 - if the threshold is too low, the risk indicator will tend to incorrectly flag compliant schools (leading to unnecessary investigative activity and administrative inefficiency).

In its *Lessons Learned*, the department recognised that the *SchoolsHUB* warning indicators did not reliably and efficiently identify schools that had a high risk of reporting students who had just commenced 18-months Foundation programs. s 37(2)(b)

Given this, the department has undertaken to conduct a review of the *SchoolsHUB* warnings.

Box 4: Business improvement process 6 (extract from Department’s Lessons Learned)

Review current warnings, including thresholds (Review to be completed by April 2024)

There are currently 30 warnings which if triggered when schools are preparing to submit their census data require the school to enter a response or explanation of the reason the warning was triggered. These warning and the responses provided by schools are reviewed by the staff processing the non-government school census returns...

A review of the warnings and thresholds will be conducted to ensure they reflect the risk appetite the department is willing to take and strike the right balance between increasing the number of warnings triggered (increasing the administrative burden on schools) and the benefits derived from increasing the number of warnings triggered.

s 47E(d)

[Redacted content]

s 37(2)(b)

Implementation

may also be delayed until the 2026 census, when a new system is implemented for *Transforming Program Administration for Schools and Universities*.

s 47E(d)

One reason for this is that they were never designed to detect the risk of MYI Foundation being included in the census. This is because MYI risk had not been identified as a risk to be monitored in the various risk management plans relating to school recurrent funding.

s 37(2)(b)

s 37(2)(b)

s 37(2)(b)

A good risk indicator should aim for a balance between effectiveness (capturing actual risks) and efficiency (minimising false alarms). Achieving this balance involves:

- refining the metrics/ algorithms underpinning the indicator,
- adjusting thresholds, and
- validating the indicator's performance through rigorous testing and calibration to maximize true positives while minimising false positives.

Setting optimal thresholds for risks indicators is not a "set and forget" exercise. It should be informed by:

- the distribution of the underlying risk metric,
- the department's risk tolerance in relation to the risk being monitored/controlled,
- the level of resources available for investigation activities (such as follow-up calls to schools or Post Enumeration audits) of schools flagged by risk indicators, and
- ongoing assessment of the performance of the risk indicator based on the outcomes of follow-up investigative activities.

These factors are likely to change from year to year.

The Review recommends the census reporting risk indicators be reviewed annually as part of the risk-based assurance process in the *Schools Funding Assurance Framework*. s 37(2)(b)

[Redacted]

The Review notes that the overpayments associated with failing to effectively monitor and control the risks associated with 18-month Foundation programs were substantial:

- Over the period 2018 – 2022, Foundation enrolments in SA NGS exceeded Year 1 enrolments by 6,228. This suggests that SA NGS received recurrent funding for over 6,000 ineligible students over this 5-year period.
- In 2023, SA non-government schools received funding (via the Special Circumstances provisions of the Act) for 1,960 students who were otherwise ineligible for recurrent funding.

As noted in Section C, it is likely that South Australian non-government schools will continue to press for ongoing funding of MYI students.

s 47E(d)

– particularly in

relation to monitoring and controlling the risk that schools are inappropriately including mid-year and multi-year Foundation students in their census returns. The Review considers that data analytics can cost-effectively supplement existing departmental resources, particularly in the period prior to implementation of the new system to support *Transforming Program Administration for Schools and Universities*.

Increasing post census data analysis

The department’s *Lessons Learned* conducted two checks on the 2022 aggregate census data to identify whether there was a systemic issue in South Australia or any other jurisdiction.

- Test 1:** Did any jurisdiction have disproportionately large Foundation years (compared to the other year levels)?
- Test 2:** Did any jurisdiction have a disproportionately large number of students who were still 4 years old on 1 July 2022?

SA NGS were a clear outlier on both these tests. In 2022:

- SA NGS non-government schools reported 8,942 Foundation enrolments and only around 7,200 enrolments in each of the remaining year levels. Other jurisdictions reported similar levels of Foundation and Year 1 enrolments.
- SA NGS reported 10.1% of Foundation students were still 4 years old on 1 July. In other jurisdictions, between 0.1% and 1.6% of Foundation students were still 4 years old on 1 July.

Based on its analysis of aggregate data for State/Territory jurisdictions, the department concluded:

Taken together, the data suggests that the practice of having students begin mid-year entry in July is not widespread and is currently limited to the non-government sector in South Australia.

Given the majority of SA NGS (58%) reported MYI in 2023, it is unsurprising that it is apparent in the 2022 aggregate census data. If these two tests had been applied in 2018, the MYI issue would have also been identified. This would have prevented significant overpayments being made to SA non-government schools. Given this, the department proposes that high-level aggregate data analysis be conducted annually post census.

Box 5: Business improvement process 6 (extract from Department’s Lessons Learned)

Increasing post census data analysis (to be completed annually post census once resources are secured)

s 37(2)(b)

[Redacted content]

Subject to the allocation of a data analyst resource, this will be completed annually post census from 2023 onwards. Following analysis, consideration will be given as to how best to progress to relevant policy areas.

While the Review agrees that data analysis should be a key part of the annual census assurance process, it is short-sighted to only look for “high level changes in the data, across sectors and jurisdictions” post Census to “inform the Census Post Enumeration target sample”. While data analysis can enable the department to see the “big picture” and identify emerging trends and differences between cohorts of schools, it can efficiently and effectively identify individual schools that warrant further investigation. As detailed in Section E, by analysing individual school data, the Review detected 7 Montessori and Steiner schools in other jurisdictions that appear to have reported students commencing mid-year and/or multi-year Foundation programs. Only one of these schools was on the department’s PE register. This school was not added until 2023.

s 37(2)(b)

. The potential overpayment to this school could be substantial as a total of 184 4-year-old students were reported over 2017 – 2023.

s 37(2)(b)

[Redacted content]

• [Redacted text block containing s 37(2)(b)]

s 47E(d)

The department's *Lessons Learned* does not recommend any amendments to the Regulations.

s 42

As noted in Section C, CESA and AISSA disputed the Minister's initial letter on the basis that:

- The definition of "year" in section 6 of the Act expressly does not apply to references to "a year in a course of primary education or secondary education".
- MYI students are enrolled in "a year in a course of primary education", being "Foundation year" on the census date.

MYI students also attend school for at least one day during the census reference period and "have a pattern of regular attendance at the school".

s 42

s 42

s 42

The brief to the Minister (MS23-00476) notes that:

Providing funding for only 2023 (as a transition period) is likely to see the non-government schools sector in South Australia continue to challenge the department's position.

...The Department is not aware of 18-month foundation programs in any other jurisdictions. When other jurisdictions learn about arrangements for South Australia, they may seek to implement similar programs and expect funding.

The first risk has already eventuated. As noted in Section C, CESA wrote to the Minister on 31 October 2023 seeking to open discussion about funding for 2024 and beyond.

There is also evidence that schools in other jurisdictions (particularly Montessori and Steiner schools) have been reporting cohorts of students who are enrolled in multi-year Foundation programs.

To mitigate against this ongoing risk, the Review recommends that the Department consider clarifying the Regulations (next time it is making other updates) to specifically exclude Foundation programs that exceed 12 months.

IV. Conclusions and recommendations

CONCLUSIONS

South Australia

Based on its examination of available documentation and communications, discussions with staff and its analysis of the 2017 – 2023 census data, the Review concludes that:

- The key cause of the 18-month Foundation issue was the decision to remove a non-legislative prohibition on reporting individual students who were likely to repeat Foundation.
- The briefs to the then Minister about the 2018 changes specifically highlighted the risks of both MYI and multi-year programs. However, these risks were not effectively communicated, monitored or controlled.
- The key factors that contributed to the non-compliance by SA NGS, and the delayed detection by the department, were:
 - ineffective communication of identified risks associated with the 2018 amendments to the legislative and policy framework to departmental staff responsible for the processing of and assurance of payments to non-government schools, and
 - the consequent lack of awareness amongst these staff that including MYI students in census returns was not consistent with policy and resulting in overpayments. This lack of awareness resulted in ambiguous advice to SA non-government school representatives.
- South Australian non-government schools:
 - believed that MYI Foundation students were eligible to be included in the census,
 - started including Foundation MYI students in their census returns in 2018, and
 - only ceased doing so in 2023 when the government made a decision that these students would be separately reported and funded for 2023 only.
- The failure to effectively monitor and control the risks associated with 18-month Foundation programs resulted in considerable payments which were inconsistent with the Act:
 - over the period 2018 – 2022, SA NGS received recurrent funding for around 6,000 ineligible students, and
 - in 2023, SA non-government schools received funding (via the Special Circumstances provisions of the Act) for 1,960 students who were otherwise ineligible for recurrent funding.

s 42

The Secretary

agreed not to exercise the discretion delegated to him under the Act to take recovery action against SA NGS that have received two years of recurrent funding for providing 18-month foundation programs.

➤

s 42

➤ The limitations of deidentified data creates significant practical difficulty in identifying and quantifying such debts.

Other jurisdictions

- There is little evidence of widespread inclusion of Foundation MYI students by schools in other jurisdictions.
- The review identified one school in the Northern Territory, which was confirmed as providing a MYI Foundation program and four other Montessori and Rudolf Steiner schools that may be including children attending mid-year and multi-year Foundation programs in their census returns. Of the five Montessori/Steiner schools, the largest potential overpayment was for a school that may have included 184 4-year-old students over 2017 – 2023.

RECOMMENDATIONS

Montessori and Steiner schools

The Review recommends the department:

- revise the Fact Sheet to ensure schools offering mixed-age Foundation programs (such as those offered by Montessori schools) understand students should only be included in the census for 1 year of Foundation,
- review any instances of Montessori or Steiner schools reporting 3-year-olds or 4-year-olds, and
- [s 47E\(d\)](#)

The Review supports a proposed targeted communication campaign to all Montessori and Steiner schools to ensure these schools are aware that multi-year Foundation students are not “repeat Foundation students” and should not be included in the census.

Review of *SchoolsHUB* warning indicators

[s 47E\(d\)](#)

More generally, the Review recommends the census reporting risk indicators be reviewed annually as part of the risk-based assurance process in the *Schools Funding Assurance Framework*. This would involve:

- identifying key risks (in consultation with relevant policy areas) and specifying indicators (metrics and thresholds) to monitor these risks considering the four factors outlined above,
- targeting assurance [s 37\(2\)\(b\)](#) and compliance activities,
- conducting these assurance and compliance activities and recording their outcomes (particularly in terms of whether they resulted in changes to enrolment data), and
- reviewing the outcomes of the assurance and compliance activities, including an assessment of the performance of the risk indicators used to target these activities.

Increased use of data analytics

All these steps require, or can be usefully informed by, data analysis to specify and refine risk indicators capable of effectively and efficiently detecting non-compliance. [s 37\(2\)\(b\)](#)

[s 37\(2\)\(b\)](#)

Data analytics may also provide a post-payment report on overall trends in particular jurisdictions or sectors. This could include analysis of open-text responses from schools to identify common themes. This report may identify emerging issues for referral to policy and/or compliance teams.

The initial areas of focus for the data analyst should be informed by the review being conducted by the department into the *SchoolsHUB* warnings.

Targeted compliance activities

In the limited time available, the Review identified 7 instances of potential non-compliance (one of which had previously been identified by the department on its Post Enumeration register). [s 37\(2\)\(b\)](#)

The Review provided the details of the schools to the Schools Assurance Branch along with a simple Excel-based tool that showed key Foundation and Year 1 enrolment statistics for these schools (and any non-government school selected).

The department has advised that it plans to use its statutory powers to require the high risk schools identified by the Review to provide records/ documents demonstrating that students are eligible. The department plans to undertake these reviews in February/March 2024.

The Review supports this proposed approach. These checks should verify:

- reported Foundation enrolments, and
- that, other than in exceptional cases, children enrolled in the previous year's Foundation classes have progressed to Year 1.

Greater communication across policy, payments and assurance areas of the department

Discussions with departmental staff involved in the payments and assurance processes highlighted siloed risk management process and limited analysis of the census data had contributed to the delayed detection of this issue by the department.

The Review considers that there needs to be greater communication between the policy, payments and assurances areas of the department, particularly when identifying risks to be monitored and controlled. These discussions should occur in advance of the annual census process so that appropriate risk indicators can be developed and implemented during the census process.

Appendix A: Terms of Reference

Review of Non-government Schools Census process and the Australian Education Act 2013

Terms of Reference

The *Australian Education Act 2013* (the Act) sets out the conditions for states and territories (states) to receive Commonwealth financial assistance for government and non-government schools in that state or territory on a calendar year basis (*'year'* is defined in Section 6 of the Act).

The calculation of recurrent financial assistance provided under the Act for non-government schools for the year is based on the number of primary and secondary students. The school level information is collected by the Department of Education (the department) in August each year through a process known as the Non-government School Census (the Census).

Non-government schools submit self-reported Census information to the department through Schools-Hub, the online portal for Australian Schools and schooling organisations to manage recurrent funding for non-government schools, inform the department of changes to schooling structures, and complete data collections.

Issues have been identified in the data reported by non-government schools for students who commence their Foundation year through a mid-year intake as part of an 18-month Foundation year program offered in some of South Australia's non-government schools. The

Australian Education Regulations 2023 (the Regulations) define Foundation as the year of schooling immediately before year 1. Foundation year students who partake in this program have been counted in the Census for two consecutive years – resulting in significant overpayments to non-government schools. These schools have been receiving two years (24 months) of recurrent funding for students participating in an 18-month Foundation program, while only eligible to receive 12-months of funding under the Act.

Scope

This Review will examine the integrity of the department's school payment system to ensure compliance with the Act, the *Australian Education Regulation 2013* and the *Australian Education Regulations 2023*.

Key areas for Review include:

1. **causes of the issue** in relation to the 18-month Foundation year in South Australia that led to overpayments, including the **department's role, governance, systems, and assurances processes** for the Non-government Schools Census collection
2. any **circumstances that may have contributed** to the non-compliance and the delayed detection by the department
3. approved authorities' awareness of their **obligations** to provide accurate information on school attendees
4. the **implications of payments** that have been provided to affected schools previously, including whether there is an obligation on the Commonwealth to recover these funds
5. any evidence that this issue, or other overpayment s defined under section 9(1) of the Act related to recurrent funding, may be **present in other jurisdictions**, warranting further investigation, and
6. **any mitigations** that need to be **put in place** to address excess payments occurring in the future and **lessons learned** to ensure future payment integrity.

In its final report, the Reviewer should make an assessment of the efficiency and effectiveness of controls in place to prevent misreporting and to detect and respond to anomalies in the data

reported by non-government schools. The Review should also include recommendations, including on further mitigations required to reduce the risk of overpayment to non-government schools under the Act and on any matters consistent with the Scope of the Review.

Information to support the Review

The Reviewer will consider:

- requirements of the *Australian Education Act 2013*, the *Australian Education Regulation 2013*, and the *Australian Education Regulations 2023*
- s 42
- Non-Government Schools Census Requirements and any other guidance material made available to school staff
- guidance materials available to departmental staff involved in the Census process, including the calculations of payments, and
- any other additional information on context and contributing factors that the Reviewer requests to support its deliberations.

Consultation

The Reviewer will consult with departmental staff responsible for the Non-Government Schools Census process, and the calculation and payment of recurrent funding. The Reviewer may also consult with other staff, parties and non-government schools and their representative bodies as required.

Timing

The Reviewer will provide the final report to the Australian Government Minister for Education before 1 December 2023.

Appendix B: Fact Sheet “Mid-Year Intake for Foundation year – recurrent funding for Foundation year”



Australian Government
Department of Education

Mid-year intake for foundation year – recurrent funding for foundation year

This fact sheet is to provide guidance on Australian Government recurrent funding under the *Australian Education Act 2013* and the *Australian Education Regulation 2013* (the Regulation) for different foundation year programs in state and territory jurisdictions.

Background

The Regulation defines 'foundation' as 'the year of schooling immediately before year 1'. As a result foundation is defined as a 'year' or 12 months of schooling. Therefore, students who participate in a foundation program that extends for more than 12 months can only attract recurrent funding for a single year (which is the year immediately before year 1).

Students who repeat foundation year of schooling can attract recurrent funding for the repeated year of schooling.

Reporting in the Non-Government Schools Census

The Australian Government conducts an annual Non-Government Schools Census (the Census) to calculate funding, meaning there is one collection of student data per year. Below are examples of how to report students who participate in different foundation year programs.

Examples:

- A student is enrolled in a mid-year intake foundation program at the start of term 3 commencing an 18-month program which finishes in December the following year. The student can not be reported in the Census for the first 6 months of the foundation program. The student is eligible to be reported in the Census for the year immediately before year 1 (the second year).
- A student is enrolled in foundation at the beginning of the school year in a 12 month 'year' of schooling that finishes in December of the same year. A decision is made that the student will repeat the same year of schooling. This student is eligible to attract a second year of foundation recurrent funding and can be reported in the Census for both years.

Contact us

For questions about ongoing requirements for recurrent funding:

- refer to the [2023 Census Requirements](#)
- call the Department of Education on 1800 677 027 (option 3)
- email schools@education.gov.au