

**Submission
No 27**

EQUALITY LEGISLATION AMENDMENT (LGBTIQA+) BILL 2023

Organisation: Australian Association of Christian Schools and Christian Schools
Australia

Date Received: 13 April 2024



AUSTRALIAN
ASSOCIATION
OF CHRISTIAN
SCHOOLS



CHRISTIAN
SCHOOLS
Australia

13 April 2024

Mr Clayton Barr MP
Committee Chair
Committee on Community Services

Via email: communityservices@parliament.nsw.gov.au

Dear Mr Barr

Inquiry into the Equality Legislation Amendment (LGBTIQA+) Bill 2023

Thank you for the invitation in your email of 19 March to make a submission in relation to the Committee's inquiry into the *Equality Legislation Amendment (LGBTIQA+) Bill 2023* (the Bill).

Nature of our member schools

Christian Schools Australia (CSA) and the Australian Association of Christian Schools (AACS) represent over 250 Christian Schools across the country, including **83 member schools educating over 35,000 students in New South Wales**. Our schools operate as independent, locally governed, religious organisations. Some are closely aligned with local churches, while others have their heritage in a group of parents coming together to start a school.

Key distinctives of our schools are:

- All schools teach the Australian curriculum and meet all requirements for school registration.
- A biblical worldview underpins the teaching and learning program across all areas of the curriculum.
- Both teaching and non-teaching staff must adhere to the Christian faith which is a 'genuine occupational requirement' for all roles and is reflected in the teaching program and myriad of relationships and interactions across the school community.

Our school parents have made a deliberate choice for their children to be educated in a school that teaches, supports, nurtures and seeks to live out the values, tenets and beliefs of the Christian faith. Our school families journey together as part of a "community of faith". A community which is often rich and diverse in socio-economic and cultural backgrounds but drawn together by the common set of values and beliefs. Each school may have a slightly different set of governing documents outlining their religious beliefs and reflecting their unique denominational or historical emphases. However, all share a strong commitment to the Christian beliefs of the Protestant tradition.

Some member schools have a focus on educating the children of the local Christian community or a particular church community. In other situations, enrolment is open to all families who share the beliefs of the school and are willing to support those beliefs. Our schools are characterised as low-fee and enrolment in our schools is not academically selective and share a common commitment to supporting the marginalised and disadvantaged through a range of programs and support mechanisms.

All of these factors are integral to the authentic Christian educational experience on offer for families who choose our schools for their sons and daughters.

This provides the background and context for this submission.

Scope of this Submission

The Terms of Reference for the inquiry have three aspects dealing with –

1. The provisions of the Bill.
2. Operational issues for government agencies raised by the Bill.
3. Additional ways of improving the safety and wellbeing of the LGBTIQ+ community.

This submission will deal largely with the first of these, however we would appreciate the opportunity to respond to any proposals under the last aspect of this inquiry that may impact on Christian schools in New South Wales. It is obviously impossible to comment on such a broad area without have specific proposed ‘improvements’ to consider and respond to.

This submission is also limited to factors directly impacting Christian and other faith-based schools. There are a wide range of other issues of broader policy nature, or in some cases a technical or drafting nature, that support our contention that the Bill should be rejected in totality. These are beyond the scope of this submission but we understand are canvassed in submissions by Freedom for Faith and other groups.

Provisions of the Bill

Proposed Amendments to *Anti-Discrimination Act 1977*

The proposed amendments in Schedule 1 have the effect of:

- Totally removing the existing balancing clauses that exempt ‘private educational institutions’ from a range of discrimination claims,
- Excluding religious educational institutions from the protections otherwise applicable to religious bodies,
- Limiting the protections applicable to religious bodies to those actions determined to be ‘reasonable and proportionate’ as determined by a Court or Tribunal,
- Removing the ability of schools to differentiate sporting activities for students along the lines of [biological] sex except in limited circumstances for those 13 years of age and above, and
- Introducing the new protected attribute of ‘sex worker’ with no balancing clause for faith-based schools,

- Removing the ability of a private schools to discriminate against a student on age grounds¹ which undermines the ability of schools to set guidelines on the age at which students can be enrolled.

These proposed changes are completely unacceptable as they would fundamentally undermine religious freedom by restricting the ability of Christian and other faith schools to enforce their doctrines, tenets and beliefs, including moral conduct standards, in relation to a wide range of employment situations, and potentially in relation to what can be taught in relation to a range of topics.

Religious freedom is a fundamental human right and the oldest recognised in international law.

Protections for religious freedom within New South Wales and other jurisdictions, as they are, are achieved largely through exemptions or exceptions, or ‘balancing clauses’ in anti-discrimination/equal opportunity law. These exemptions provide the only [poor] mechanism that currently protects religious freedom for Christian and other faith-based schools, in most jurisdictions.

These proposals to narrow the effective protections of religious freedom through exemptions in the *Anti-Discrimination Act* and the other proposals outlined above, all fail to protect the rights of parents outlined in Article 18(4) of the *International Covenant on Civil and Political Rights* (ICCPR), to which Australia is a signatory –

‘The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.’

This is a fundamental and absolute right in the ICCPR, yet it would be profoundly diminished by the proposals in Schedule 1 of the Bill.

Recommendation: the proposed amendments to the Anti-Discrimination Act 1977 contained in the Bill should be rejected in their entirety.

Proposed Amendments to Births, Deaths and Marriages Registration Act 1995

The proposed amendments would allow anyone over the age of 15, including minors, to change the sex on their birth certificate to their own chosen ‘sex descriptor’ by the completion of a form, a statutory declaration and the provision of a support statement by an adult. By removing the requirement for surgical intervention to be a prerequisite for changing a sex descriptor on official documents such as birth certificates creates a minefield for schools and presumes that minors have the capacity to make life altering decisions for themselves without the oversight or permission of their parents or guardians.

These amendments would undermine the ability of private Christian and other faith schools to apply their doctrines, tenets and beliefs in the operation of their school. Under these proposals a 16 or 17 year old student could legally change their sex and seek to be treated as the opposite sex which fundamentally undermines the privacy and sex-based rights of other students and the rights of schools to operate their schools in accordance with biological sex through uniform policies, school camps and sports teams. It will also have the effect of making existing legislative exemptions that allow for single-sex spaces such as schools and gymnasiums redundant, as those exemptions are based on sex.

¹ *Equality Legislation Amendment (LGBTIQA+) Bill 2023*, sch1, cl38, p. 11.

If a person wanted a record of their gender identity on an official document, such as a birth certificate or drivers license, we believe it should be included as an optional, separate item rather than as a replacement for the record of a person’s biological sex, as recorded at birth.

Recommendation: do not conflate gender identity with biological sex on official documentation and increase the minimum age of allowing a gender change to 18 years.

Additional ways of improving the safety and wellbeing of the LGBTIQ+ community.

The Terms of Reference for this inquiry also invite submissions into additional ways of improving the safety and wellbeing of the LGBTIQ+ community.

There is significant divergence of opinion in the medical community in Australia and overseas as to whether gender-affirmative treatment is appropriate for children experiencing gender dysphoria. We are concerned that despite the growing body of research that cautions against an affirmative approach to gender dysphoria, such as the recently released Cass Review Final Report, that Australian states and territories are passing laws that favour a gender affirmative approach.

A key way to improve the safety and wellbeing of young people who experience gender dysphoria is to conduct a full and transparent public inquiry into gender affirmative treatment on children.

Recommendation: that the Committee recommend the NSW Parliament conduct an inquiry into gender affirmative treatments in children.

Conclusion

As indicated above, this submission seeks to narrowly address proposed changes in the Bill that have direct impact on Christian and other faith-based schools. On the basis of these concerns alone, the Bill should be rejected as ideologically driven and lacking in any rationale basis. In addition, the Anti-Discrimination Act 1977 is currently subject to a referral to the New South Wales Law Reform Commission and the terms of reference include ‘exceptions, special measures and exemption processes’. The Bill is therefore premature and should be rejected to allow the NSWLRC to complete its inquiry.

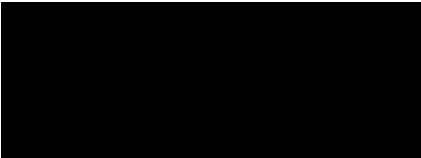
The other concerns canvassed in submissions we have seen amplify these concerns across the broader scope of the proposed amendments.

We ask the Committee to recommend that the Bill as a whole be rejected by Parliament.

Yours sincerely



Christian Schools Australia
Mr Mark Spencer,
Director of Public Policy



Australian Association of Christian Schools
Mrs Vanessa Cheng,
Executive Officer

