

Inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020

Post-hearing response by Parents for Transgender Youth Equity



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We cannot create an inclusive society that supports the healthy development and rights of all people if we remain silent as the most vulnerable among us are targeted with damaging and deadly discrimination. We cannot teach our children tolerance if they see their friends being prohibited from basic childhood activities such as participation in sports. We cannot deny people the right to determine who they are and to live in ways that support them. Transgender people are our neighbours, our friends and our family members.

- [Dr Margaret Flowers](#), 2021

Introduction

The Hon Mark Latham, MLC
Chair, Portfolio Committee No. 3 – Education
Upper House Committees (Legislative Council)
Parliament of New South Wales

Via email: PortfolioCommittee3@parliament.nsw.gov.au

18 May 2021

Dear Mr Latham,

Re: Education Legislation Amendment (Parental Rights) Bill 2020

Thank you for the opportunity to provide a response to the question on notice regarding the Department of Education's legal issues *Bulletin 55 – Transgender students in schools* taken at the inquiry into this Bill when we appeared as witnesses.

As you are aware, we are a group of NSW parents and carers who seek to ensure all NSW transgender and gender diverse (trans) youth are treated with respect, fairness and equity in the same way as non-gender diverse youth.

There are approximately 18,646 transgender students currently in NSW Public Schools and just under 10,000 in non-government schools¹. Only 31% of these students have shared their gender status with their parents or caregivers². Due to fear of discrimination and harassment most of those students never 'come out' at school³. Students currently pretend to be someone they are not most days at school. This leads to poor classroom engagement, poor education outcomes and impacts our community.

The ideology that transgender children are dangerous and must be hidden from their peers appears to be a toxic social contagion amongst adults, which then adversely affects our children and leads to intentionally discriminatory proposed laws such as this.

The assertion that this Bill reasserts the rights and roles of parents in their moral, ethical, political and social development of their children does not hold. This Bill prohibits students learning about trans people **regardless** of parental views. This Bill **removes our rights** as parents of trans youth. The almost 30,000 trans kids in NSW schools each day are just like all other children; we just got their gender wrong at birth. They are inherently the exact same child prior to coming out as trans. They still won't eat enough fruit or vegetables or pro-actively finish their homework. Nothing about them inherently changes just because they're trans.

We appreciate the work that the majority of individuals at NSW schools do each day to support trans youth despite the current climate and these individuals cannot be punished for supporting marginalised children.

We desperately need education for parents, education staff, students and the wider community, that being transgender **is** a normal and natural part of human diversity.

If the broader community knew that trans youth are loved just like other children, that being transgender is a natural, normal (and frankly awesome!) part of our human diversity then trans youth could all be who they are and focus instead on living their best life, rather than hiding who they are due to a simple lack of education. The experience of

thousands of parents of trans youth across NSW is that the community supports us to continue unconditionally loving our children if they are transgender.

Where a parent reacts with disgust to their child being trans, our experience is that most people in the community find that odd, especially where the parent has previously said they love their child. That is conditional love of a child, not unconditional love. P-TYE does not consider this to be a model to be fortified, which this Bill will do. A government should encourage through actions and words that it's ok to love your child unconditionally, including if they are transgender. The NSW community generally obtains any inaccurate information about trans youth from media including from individuals seeking increased political capital by using and demonising our children. This is abhorrent and must stop.

If this Bill proceeds every Department of Education policy will have to be amended or removed to reflect this Bill's intended legalised discrimination, and prohibition of equity, dignity and respect for our children. P-TYE has found Bulletin 55 to be vital. The burden of labour experienced by parents of transgender youth is well known⁴ with Bulletin 55 reducing this burden (when parents learn of its existence) by enabling parents to share it with the school (who are also often not aware of it either).

However, Bulletin 55 requires immediate updates along with a commitment to improve communication and implementation of it within public schools and the broader community. As such, P-TYE's recommendations can be summarised as follows:

1. Trans-affirmative pedagogical spaces for students must be a minimum standard. The transgender student should not be viewed as the locus of risk and the advice not be framed as risk mitigation, as currently portrayed in Bulletin 55 and this Bill;
2. Integration of the child with their peers in all school activities should be the focus rather than isolation which appears as a central strategy for risk mitigation in Bulletin 55 and this Bill;
3. Inclusion of practical advice for classroom conversations, interactions and educative experiences and conversations with parents is required. Immediate whole-school educative approaches are needed both theoretically and practically; and
4. Removal of barriers by NSW government services for trans youth to improve engagement with the wider community and optimise education outcomes and family cohesion for families is required which includes rejection of this Bill in full.

From this, we have sixteen high level recommendations for the committee, to improve Bulletin 55 and the education experience in NSW Public Schools-listed in **TAB A**.

Parents for Transgender Youth Equity cannot overstate the current dire situation for transgender youth in NSW. This Bill is anti-equality with a eugenics approach to trans youth It must be rejected in full to optimise education outcomes for all and not worsen engagement and safety in NSW Public Schools. Legalising and promoting discrimination of our beloved children simply because we got their gender wrong at birth is repugnant.

Yours faithfully,

Lannen Stapleton
She/Her
Executive Director
Parents for Transgender Youth Equity

Carlie Morris
She/Her
Member
Parents for Transgender Youth Equity

TAB A – P-TYE Recommendations for the Inquiry Committee

Recommendations for Portfolio Committee No. 3 – Education by P-TYE in response to the Question on Notice about the NSW Education Department’s Bulletin 55.

Correspondence to Ministers and those external to the Committee have been forwarded and included in this post-hearing response for your records.

Recommendation 1

Reject this proposed intentionally discriminatory Bill against our already marginalised kids which also denies us our Parental Rights. This will ensure our kids rights to an ongoing education, our parental rights for our children to learn about themselves, and Bulletin 55 to remain in place.

Recommendation 2

The Department of Education make immediate changes to Bulletin 55 as listed in **TAB C** and provide the research in **TAB M** to the Department to fully understand the current dire situation for transgender youth and why *immediate* improvements are required.

Recommendation 3

Provide **TAB D** and **TAB E** to the Department of Education to improve communication and implementation of Bulletin 55 to better support all students.

Recommendation 4

The Department of Education contact Tania Ferfolja from the School of Education at Western Sydney University³ to explore current research which demonstrates how to optimally achieve whole of school improvements in experiences and outcomes.

Recommendation 5

All schools and students must be provided with appropriate, inclusive and respectful education that transgender kids exist. This will then provide all students with knowledge of the diversity of our community to better prepare them to enter the world as adults.

Recommendation 6

All school counsellors must have Bulletin 55 awareness as part of their annual mandatory training (at least 1,864 NSW public school trans students rely on school counsellors annually).

Recommendation 7

NSW public school systems must operate from ‘preferred name’ where that is provided, not the legal name of the child. Given the significant and impossible barriers to transgender kids amending name and gender on NSW identity documents, legal names should not be displayed to education staff for transgender children. Where ‘preferred name’ is provided in documents, this must be the only name displayed on all school documents.

Recommendation 8

All schools must have a unisex toilet and change room available for all students.

Recommendation 9

Births Deaths and Marriages to urgently propose amendments to the NSW Parliament to stop the current abhorrent and impossible legislative requirement of surgical sterilisation of transgender children to update their gender marker on their birth certificates. Children must supply their birth certificates when enrolling in school and this is not a fair or

accurate reflection of who they are. **TAB F** is a copy of correspondence sent to the Hon. Victor Dominello MP to request these immediate legislative amendments. We would be pleased to discuss this recommendation further with the Minister.

Recommendation 10

Acknowledge the NSW Parliament lower house motion of 21 October 2020 unilaterally supporting the transgender community which includes trans youth, in your final report and acknowledge that this Bill contradicts the unilaterally agreed parliamentary motion.

Recommendation 11

Urgently establish a fully funded multi-disciplinary freely and timely accessible gender clinic for all youth and families in NSW who need professional guidance, given family support and affirmation impacts greatly on optimal education outcomes. **TAB G** is a copy of correspondence sent to the Hon. Brad Hazard MP.

Recommendation 12

The Public Service Commission implement targets of at least 2% minimum of the public service confirming they are transgender by 2025 so our kids know there are efforts by their government to overcome the current systemic discrimination. There should be approximately 7,590 full-time transgender employees in the NSW public sector workforce⁵. **TAB H** is a copy of correspondence sent to Kathrina Low, the NSW Public Service Commissioner.

Recommendation 13

Introduce and legislate a Bill of Rights in NSW to ensure discrimination against students based on their gender status does not occur in NSW. This would stop intentionally discriminatory Bills that seek to harm our most marginalised being introduced in the future. **TAB J** is a copy of correspondence sent to the Hon. Mark Speakman SC MP.

Recommendation 14

The Federal Government Census introduce an option to enable every person in NSW to self-identify themselves or their children as transgender to better understand the current situation in NSW schools. Currently the census does not contain this field. **TAB K** is a copy of correspondence sent to the Hon. Michael Sukkar MP.

Recommendation 16

NSW should put its best foot forward when the international media descend on Sydney for World Pride 2023 and shine a spotlight on us. **TAB L** is a copy of correspondence sent to the Hon. Stuart Ayres MP.

TAB B – Bulletin 55 (current version with numbered paragraphs)

P-TYE has numbered all current paragraphs and headings of Bulletin 55 in this TAB to easily compare recommended immediate changes outlined in TAB C

Transgender students in schools

Transgender students in schools, legal issues bulletin 55, LIB55

1. The Department of Education is committed to providing safe and supportive learning environments that respect and value diversity and are free from violence, discrimination, harassment and vilification. Research shows the supportive environment schools provide can have a lasting impact on both the educational and lifelong outcomes for students.
2. Most people express the gender that corresponds with their biological sex. There are some people whose gender identity or expression is different from that traditionally associated with assigned sex at birth. This is known as being transgender. This can occur at any age.
3. All students, including those who identify as transgender, have a right to be treated equitably and with dignity. The department has a number of resources that support these rights including the Student Welfare Policy and the Bullying: Preventing and Responding to Student Bullying in Schools Policy. These resources promote a proactive approach to the development of positive school environments in which every student is respected and valued. Additionally, schools have a legal duty to protect students from foreseeable risk of harm and to do what is reasonably practicable to ensure their safety.
4. The following information is general in nature. It is important, to structure any support specifically to the individual needs of the student within a particular school. Not all students who identify as transgender will require a plan to support them but it is necessary to assess the likelihood of any risk to each transgender student and where required plan for their support.

5. Legal rights for transgender students

6. A student who has identified as transgender enjoys the same legal rights or protections afforded to all students under the duty of care, education and work health and safety laws. Additional protections apply to such students under discrimination law. For example in NSW the Department of Education is prohibited from unlawfully discriminating against a student on transgender grounds:
 - i. by refusing or failing to accept the person's application for admission as a student, or
 - ii. in the terms on which it is prepared to admit the person as a student.
7. The department is also prohibited from unlawfully discriminating against a student on transgender grounds:
 - i. by denying the student access, or limiting the student's access, to any benefit provided by the educational authority, or

- ii. by expelling the student or subjecting the student to any other detriment.
8. It does not follow that an application for enrolment from a transgender student can never be declined or that a transgender student can never be expelled. Rather, the law requires the student is not subjected to unlawful discrimination when such decisions are made. Further information about discrimination on transgender or gender identity grounds is found at Attachment A.

9. Privacy legislation and transgender students

10. Most, if not all, of the information collected about a transgender student will be personal or health information. This information is protected by privacy legislation.
11. While privacy legislation will not necessarily prevent school or other departmental staff from using or disclosing information for a lawful purpose (for example in the discharge of the duty of care or for child protection purposes), it is important wherever practicable to discuss how it is intended information will be used or disclosed with the student. This issue should also be discussed with the student's parent(s) or carer unless the principal believes on reasonable grounds that it is not in the student's best interests to do this (for example a court order has removed a parent's parental responsibility for that student).
12. School and other departmental staff should seek legal advice in circumstances where parents or carers and/or the student object to the proposed use or disclosure of a student's personal and/or health information.

13. Name and gender records

14. Generally, students are enrolled at school under the name and gender on their birth certificate. There are exceptions to this position, however, including where a student is transgender and seeks to change the way their first name is used and recorded by the school. Principals may wish to review [Legal issues bulletin 20](#) for advice about the process to follow when this issue arises.
15. Students should then be referred to by the name they are enrolled under. The pronoun used to describe the student (he/she, him/her) should be consistent with the gender now recorded by the school. The department's [Code of Conduct](#) and the individual school's discipline and welfare policy should be utilised where staff or students deliberately or repeatedly use names or pronouns other than the one identified by the student concerned.

16. Uniform for transgender students

17. The department's [School Uniform Policy](#) encourages schools to consider individual student circumstances when considering the school's uniform. Many schools have developed unisex uniforms that are not gender specific.
18. Students who identify as transgender should be allowed to choose from the uniform options available at the school.
19. All students are required to wear items identified as necessary for particular activities, e.g. closed in shoes for practical food technology classes. A school

uniform should meet requirements of work health and safety and anti-discrimination legislation.

20.Supporting a student who has identified as transgender

21. Support needs will vary from student to student. It is important to consult with the student and their parents or carers where practicable when planning for the student's support unless the principal believes on reasonable grounds that it is not in the student's best interests to do this (for example a court order has removed a parent's parental responsibility for that student).
22. Where reasonably practicable, the student should be treated on the same basis as other students of the same identified gender.
23. Consideration should be given to each activity the student is involved in at school. It is important to consider and as necessary plan ahead for any key transition points in the student's schooling.
24. Risks arising from these activities should be identified and assessed and strategies to eliminate or minimise the identified risks should be implemented so far as is reasonably practicable. Staff must be consulted where they are also potentially at risk. Activities to be considered may include:
 - i. use of toilet and change room facilities
 - ii. excursions including overnight excursions
 - iii. school sport
 - iv. curriculum
 - v. health care planning and
 - vi. gender transitioning while at school.
25. A sample plan for a high school student who has identified as transgender is found at Attachment B. This is a sample only – the strategies it contains will not apply in all circumstances. The actual strategies required to support a student will vary according to their individual circumstances and the school they attend.

26.Use of toilets and change room facilities

27. Toilets, showers and change rooms are specific to each school. An assessment of the risk posed to the student by using the toilets of their identified gender must be undertaken. If an identified risk to the student cannot be satisfactorily eliminated or minimised then other arrangements should be made. The need for the student to be safe is a paramount concern in these circumstances.
28. Students should not be required to use the toilets and change rooms used by persons of the sex they were assigned at birth if they identify as a different gender. Alternative arrangements may include using staff toilets or unisex toilets where possible. The exclusion of students who identify as transgender from the toilet or change rooms of their identified gender must be regularly reviewed to determine its continuing necessity.
29. If other students indicate discomfort with sharing single-sex facilities (toilets or change rooms for example) with a student who identifies as transgender, this should be addressed through the school learning and support team.

30.Excursion including overnight

31. An assessment of risk is normal procedure for all excursions. Ordinarily, a student who identifies as transgender should use the facilities of their identified gender or unisex facilities when available. In some circumstances, it may be appropriate to arrange private sleeping quarters.

32.School Sport

33. A student who identifies as transgender should be permitted to participate in most school-based sports as their identified gender. Where the sport is competitive and the student is under 12 they should compete as their identified gender. Most students will be able to continue to participate in competitive sport in their identified gender after they have turned 12.
34. It may be lawful to exclude students aged 12 and over from competing in certain sports at the elite level in certain circumstances. Confidential case-by-case evaluation should occur. More information is available at: https://www.ausport.gov.au/supporting/integrity_in_sport/resources/national_member_protection_policy_templateExternal link

35. Curriculum

36. All teachers should be respectful and inclusive of all students' individual learning identity. Gender identity may be discussed in many curriculum areas including Personal Development, Health and Physical Education (PDHPE) classes following syllabus guidelines. Teachers should treat the topic in a manner that is respectful, inclusive and positive. Information for PDHPE teachers can be found at the department's [Curriculum Support Site](#).

37.Health care planning

38. Students undergoing a gender transitioning process will do so over time and in consultation with health care professionals. The process may or may not include medical treatment. The [Student Health in NSW](#)
39. [Public Schools](#) policy should be applied by schools in relation to medication or any other health care needs the student may have.

40.Gender transitioning while at school

41. When a student advises of their intention to gender transition, schools need to provide a safe and supportive environment. It is often useful to set a date of gender transition for the student (in consultation with the student and their parent/carer) at the point of return from holidays. This allows an immediately visible change even though the personal process of change will occur over a longer period of time.
42. The school counsellor is likely to have an important role to play in supporting the student and their family. This could include liaising with the school and health professionals, especially in cases where the student may be experiencing difficulties in their personal relationships with family and friends. Staff may need additional professional development to enable them to successfully support the student.

43. The welfare and educational needs of the student are of primary importance and should be the focus of all actions taken by the school.

44. Communication strategies

45. Communication strategies should potentially be developed and implemented for:

- i. the school and the student and his or her parents or carers
- ii. the student and his or her friendship group
- iii. other students and school staff
- iv. the broader school community; and (potentially) the media.

46. The student and their parents or carers

47. Ongoing, open and transparent communication between the school, and the student and their parents or carers is an essential part of providing the student with a safe and successful education unless the principal believes on reasonable grounds that it is not in the student's best interest to involve the parents or carers (for example a court order has removed a parent's parental responsibility for that student). A point of contact should be established within the school and the parents/carers and student encouraged to provide the school with relevant information. Parents and the student should be encouraged to promptly advise the school of any new or changed information, issues or incidents that occur at the school.

48. It is also important to encourage parents and the student to advise the school of any relevant incidents that occur outside of school. For example, it is important for the school to be advised if there has been an incident involving the student and other students on the weekend or a public holiday in order to review any plans for supporting the student at school.

49. The student and friendship groups

50. A student who identifies as transgender may need to discuss issues with the school counsellor (or staff member nominated by that student) such as informing friendship groups and other peers if they choose to do so. Depending on the circumstances it may also be necessary to provide support to students in the friendship group.

51. Other students

52. Students may be curious or confused if one of their peers discloses that they identify as transgender. They should be reassured that the student deserves the same respect and courtesy that they would extend to any other person.

53. Other students may have questions about the student who has identified as transgender, particularly when the student has transitioned while they are at the same school. Staff should be provided with a suggested response to these questions. This response should promote acceptance but will vary according to the student's individual circumstances. The school counsellor and/or District Guidance Officer can assist in developing this response. Legal Services may be of assistance if legal issues arise.

54. Consideration should be given to how gender diversity is currently dealt with in the school and whether further action is necessary to reinforce the need for tolerance and respect for diversity.

55. Staff

56. It is important to identify the staff who need to have more detailed knowledge about the student in order to provide them with a safe and supportive learning environment. This is likely to include the principal, school counsellor and year advisor (where the student is in high school). Depending on the circumstances it may also include classroom teachers and other staff that need the information in order to safely provide the student with learning and support.

57. It is important to remind staff that a student who identifies as transgender has the same rights to learning in a safe and supportive environment as all other students and that additional support for the student may be necessary. It is also important to remind staff of their professional obligations in their dealings with all students and particularly with students who may be more vulnerable.

58. Staff may need additional professional development to support the student. Consideration should be given to what professional development staff may need while planning for the student's enrolment and/or transition. Assistance can be obtained from the Student Engagement and Interagency Partnership directorate in identifying possible sources of professional development.

59. The broader school community

60. On occasions, it is helpful if school staff are provided with a school-developed response to enquiries from the broader school community. The school should consult with the student who identifies as transgender and their parents to develop this response.

61. Media

62. The school should respond to any external enquiries about students who identify as transgender with respect for the student's privacy, as with enquiries about all students. Any media enquiries should be referred to the Media unit on (02) 9561 8501.

63. Support for the extended family of the student

64. Siblings and the student's extended family may find the student's transition challenging and be adversely affected by the impact of the student's transition on their family. Siblings and other family members can also experience bullying behaviour from peers and others as a consequence of the student's transition. Strategies to address this should be implemented across the schools in which the student who has identified as transgender or their affected family members are known to have enrolled.

65. When a sibling, or a member of the student's extended family, attends a non-government school it may be helpful to work with that school to coordinate support for the student and their family. Consent should ordinarily be sought

from the student's parents or carers or to allow this information exchange and coordination to occur.

66. Where this consent is not able to be obtained and information related to the safety, welfare or wellbeing of the student or his/her siblings or extended family is needed to help with decision making, planning, assessment or service provision then the Children and Young Persons (Care and Protection) Act 1998 can be used to seek and/or provide information and also to coordinate services. The school counsellor may be able to assist in this regard. See [Legal issues bulletin 50](#) for more information about this process.

67. Reporting requirements

68. On rare occasions, a parent's or carer's response to a student identifying as being transgender could give rise to a reasonable suspicion that the student is at suspected risk of harm. This could relate to the parent's stated response to their child identifying as transgender but other risk factors may be present. School staff should inform their principal of any concerns about a student who may be at suspected risk of harm.

69. Principals need to consider whether a report to DCJ or contact with the department's Child Wellbeing unit or some other action is required. The [Mandatory Reporter Guide](#) can help with this decision. If in doubt or if assistance is required contact can be made with the department's Child Wellbeing unit. The department's [Child protection policy: responding to and reporting students at risk of harm and guidelines](#) also provides guidance about responding to child protection issues.

70. Enrolment in a single-sex school

71. If the student is seeking enrolment at a single-sex school, a decision about their eligibility to enrol should be made on the basis of his or her identified gender. If the student is already attending school advice should be sought from Legal Services.

72. Record keeping requirements

73. It is critically important to maintain appropriate official records when supporting a student who has identified as being transgender. These include records of:

- i. information provided by health care professionals or other professionals involved in providing support to the student
- ii. meetings of the school learning and support team, copies of programs and where applicable units of work from year advisors or other staff used to raise awareness amongst students
- iii. staff training and orientation (including briefing of casual staff)
- iv. consultation with parents or carers, students, staff and others as appropriate during the development of learning and support plans for the student; and
- v. the development and implementation of plans to provide the student with learning and support (including any health care planning) and their later review. It is also important to keep a record of who has been provided with the current version of the plan.

74. Schools must observe any requirements imposed by privacy legislation with most records other than risk assessment and management strategies being kept secure and accessible only to those staff that need to see them. Staff should contact the Records Management Centre of Expertise (CoE) if they have specific records-related queries.

75. Assistance available to schools within the department

76. The Principal Education Officer, Learning and Engagement Coordinator can be contacted to provide advice. Legal Services can also be contacted for legal advice.

77. Resources available to support schools

- i. An Anti-Discrimination Board Factsheet, Transgender Discrimination
- ii. A Gender Centre factsheet, Gender Variant Students: For teachers dealing with transgender students
- iii. A department Student Engagement and Interagency Partnerships guide, Bias based bullying
- iv. <https://gendercentre.org.au/resources/kits-fact-sheets/general> External link

78. Attachment A

79. Discrimination on the basis of gender identity

80. Commonwealth Sex Discrimination Act 1984

81. The Commonwealth Sex Discrimination Act 1984 (the Commonwealth Act) defines gender identity as meaning the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person (whether by way of medical intervention or not) with or without regard to the person's designated sex at birth. It provides that a person is unlawfully discriminated against on the ground of their gender identity if by reason of:

- i. their gender identity; or
- ii. a characteristic that appertains generally to persons who have the same gender identity; or
- iii. a characteristic that is generally imputed to persons who have the same gender identity

82. the transgender person is treated less favourably than, in circumstances that are the same or are not materially different, a person who has a different gender identity would be treated.

83. A person may also be unlawfully discriminated against if a condition, requirement or practice that has, or is likely to have, the effect of disadvantaging persons who have the same gender identity as the aggrieved person is imposed (or proposed to be imposed) on that person unless the condition, requirement or practice is reasonable in the circumstances. The matters that are taken into account in deciding whether a condition, requirement or practice is reasonable in the circumstances include:

- i. the nature and extent of the disadvantage resulting from the imposition, or proposed imposition, of the condition, requirement or practice; and
- ii. the feasibility of overcoming or mitigating the disadvantage; and

- iii. whether the disadvantage is proportionate to the result sought by the person who imposes, or proposes to impose, the condition, requirement or practice.

84.NSW Anti-Discrimination Act 1977

85. The NSW Anti-Discrimination Act (the NSW Act) defines a transgender person as including persons who identify as a member of the opposite sex by living or seeking to live as a member of the opposite sex or who being of indeterminate sex identify as a member of a particular sex by living as a member of that sex.

86. The NSW Act provides that a person is unlawfully discriminated against on transgender grounds if, on the grounds that they are transgender:

- i. they are treated less favourably than in the same circumstances (or circumstances which are not materially different) than a person who is not transgender
- ii. they are required to comply with a requirement or condition with which a substantially higher proportion of persons who are not transgender persons comply or are able to comply being a condition that is not reasonable having regard to the circumstances of the case and with which the transgender person does not or is not able to comply.

87.Sample support and risk management plan

88. This is a sample plan for a [high school student \(DOCX 55KB\)](#). It should be modified to suit the needs of the individual student at the particular school.

TAB C – Recommendations for immediate changes to Bulletin 55

Bulletin 55 is a base document and minimal resource stop gap until a fully funded program is in place. It needs revisions and additions however it must remain available as a minimum resource for schools at all times.

Overarching changes required:

A wider education program is required, however due to the moral panic around transgender youth, Bulletin 55 sets the minimum expectations. The wider program is required for all education staff, and in the curriculum for students.

We recommend the inclusion of two definitions at the start of the document such as:

Transgender: an umbrella term for people whose gender is different to the gender assigned to them at birth. This includes people who are gender diverse, outside of the gender binary and within the gender binaries.

Education staff: an umbrella term for anyone that works or volunteers in a school environment.

We are very pleased with the legal requirements in the bulletin that they are first placed as a lot of schools are not aware of their legal requirements.

Detailed changes by paragraph number as set out in TAB B

Paragraph No.	Recommendations
1	Excellent introductory statement. No recommendations for change.
2	Replace entire paragraph with: "Most people express the gender that corresponds with the gender assigned to them at birth. Those whose gender is different to that assigned to them at birth are transgender."
3	Replace "identify as" with "are".
4	Replace entire paragraph with: It is important to structure any support specifically to the individual needs of the student. It is necessary to support transgender students to optimise their engagement with their education and achieve their best. It is also necessary to ascertain and plan for the required support of each individual transgender student to mitigate risks to the student. It is a legal duty of NSW schools to protect all students from foreseeable risk of harm. Transgender students must be treated with equity and dignity.
Legal rights for transgender students	
6	Replace "has identified as" with "is". Replace "transgender grounds" with "the basis of them being transgender"
12	This paragraph needs to explicitly state that the recommendation for legal advice around disclosure of transgender status relates to reportable

	instances only. It is never ok for schools to disclose a students transgender status against the student's wishes.
13	In NSW transgender people must be surgically sterilised to update the gender marker on their birth certificate. A child must supply their birth certificate when enrolling in a school which is not an accurate reflection of who they are. We strongly recommend NSW follows all other states and territories that enable transgender students to update their state legal identity documents without a need for surgical intervention. We would be pleased to discuss this recommendation
14	NSW public schools systems operate from the legal name. Given the difficulties in transgender youth amending name and gender on NSW identity documents, legal names should not be displayed to education staff for transgender children. Where 'preferred name' is provided in documents, this should be the only name displayed on all school documents.
18	Replace "identify as" with "are". Replace "should" with "must"
20.	Replace heading "Supporting a student who has identified as transgender" with "Supporting a student who is transgender"
21	Children have agency over their gender as a human right. We recommend that 'Unless the principal believes on reasonable grounds' is expanded to explicitly state that it is based on the student's wishes. As per research provided, almost 70% of transgender students have not shared with their parents their transgender status.
22	Replace entire paragraph with "Transgender students must be treated on the same basis as other students of the same gender".
24	Solutions and examples need to be included in this area to provide education staff with successful ways of optimising outcomes for all in these given scenarios. For a successful example under 'use of toilet and change room facilities', P-TYE is aware of a parent at a NSW public school who complained about her 6 year old cisgender daughter sharing the girls toilet with a 6 year old transgender girl. The Principal provided a solution acceptable to everyone that the cisgender child could then use only the teachers bathroom if there was concerns so that the transgender girl was not discriminated against and not incidentally 'outed' as transgender. Further examples of optimal outcomes for all can be provided by P-TYE at the committee's request or at the Department of Education's request.
25	The sample plan for a high school student is excellent and useful for school's to identify risk, however we recommend the sample be extended to also include a sample plan of how the school can then optimise equity and dignity for that transgender youth and meet the school's requirement to support trans students to optimise their engagement with their education and achieve their best.
25	We also strongly recommend example plans for transgender students that are 'out' to their parents and community and examples plans for transgender students that are not 'out' outside of the school community, such as when it's not safe for a student to be out to their parents.
26	At least one unisex toilet should be available for all students at every school.+
28	Replace the entire first sentence with: "Students cannot be made to use the toilets and changerooms of the gender they were assigned at birth where they are transgender". Second sentence remove "where possible". Third sentence replace with "The exclusion of students who identify as transgender from the toilet or change rooms of their known gender must

	always be a last resort. If this occurs, this must be regularly reviewed to determine its continuing necessity in conjunction with the requirement of equity and dignity for that student.
29	Replace entire paragraph with: If other students or their parents indicate discomfort with sharing single-sex facilities (toilets or change rooms for example) with a student who is transgender, the child complaining or the child of the parent complaining must be offered alternatives such as staff toilets or unisex toilets where possible.
31	Replace entire paragraph with: A student who is transgender must be able to use the facilities of their gender. Where the transgender student has concerns or issues, then it may be appropriate to arrange private sleeping quarters.
32	We recommend a link to Proud2Play.org.au is placed in this section for any schools that have questions about transgender youth and sport.
34	Replace 'It may be lawful to exclude students aged 12 and over from competing in certain sports at the elite level in certain circumstances' and replace with "Should the school have concerns about participation in elite sports then the school should reach out to the individual sport's governing body" e.g. Cricket Australia.
34	Additional paragraph to be included which states: Transgender students however must be given an option around participating in aquatic sports and activities and provided with alternatives where the student does not provide active consent. Exclusion must not be the default position of the school.
35	Additional paragraph required under Curriculum as follows: Where a child transitions at school then all peers must be provided with constructive education on the normal and natural existence of transgender youth at age appropriate levels to ensure the ongoing safety of the transgender child and continue to optimise their education outcomes. At a minimum.
35	All schools and students must be provided with appropriate and respectful education that transgender kids exist. This way it will not place a potentially dangerous focus on an individual child that transitions and provide all students with knowledge of the diversity of our community to better equip them to enter the world as adults and get along with all community members.
36	Replace the word "should" with "must" x 2
37	Additional paragraph to be included which states: "Some transgender students will only socially transition. E.g. change in name, pronouns and clothes. Other transgender students may require health care professionals to support their transition."
38	Replace the entire paragraph with: "Students that do undergo a gender transition process will do so with varying degrees and timeframes. Some students do so in consultation with health care professionals. Those that do consult with health care professionals may or may not require affirmation procedures"
41	Remove the words "at the point of return from holidays" as the optimal time for a child to transition will vary with every child. Sometimes school transition is urgent for a transgender student, sometimes transgender students are able to wait.
42	As per attached research, 10% of transgender students talk with their school counsellor around their gender, that means at least 1,864 transgender students are speaking with school counsellor's across NSW

	each year and given that almost 70% of transgender students have not shared their gender status with their parents or carers, counsellors must be understanding of transgender issues as they can make the difference between a child being affirmed and feeling safe at school, or developing internalised transphobia which can often lead to self-harm and the shocking attempted suicide statistics. All school counsellors must be familiar with this Bulletin as part of their annual mandatory training.
43	Replace "should" with the word "must"
Communication strategies	
45	Replace entire paragraph and bullet points with: Any communication strategy must be aligned to the transgender student's wishes. The privacy of the student must always be respected and it is not appropriate to share with the wider community that a transgender child is enrolled at the school or transitions at the school unless explicitly requested by the student to improve their wellbeing. The transgender student must be provided with the name of a trusted adult at the school that they can communicate with and raise any issues that arise such as bullying by other students, misgendering by teachers, or anything that may adversely impact on the student's wellbeing.
46.	The student's wishes must be adhered to regarding sharing of information around their gender status, including discussions with parents. This must be an additional first point under this heading. Even without a court order, a transgender child may not be safe at home if their parents are advised of their gender.
50.	Replace "identifies as" with "is". Replace the last sentence "Depending on circumstances it may be also be necessary to provide support to students in the friendship group" with "education of a child's transgender status must not be left to the child to explain to their peers, unless explicitly requested by the child. Whole of school education must be completed without naming the child, that transgender youth are a natural and normal part of every community on earth and we just got their gender wrong when they were born. Work with the child on how they best wish to share their gender status with their friends".
50.	Examples of how to share a transgender child's pronouns and name with their peers must be provided here for schools to utilise as education staff just don't have the experience to know the options to provide a child. Education staff ignoring a child's transition at school is not appropriate under any circumstances.
52.	Replace "identify as" with "are". Include after the word 'reassured' "that transgender people are a natural and normal part of human diversity and always have been. Also, that...."
53.	Replace "has identified as" with "is". Remove "Staff should be provided with a suggested response to these questions. This response should promote acceptance but will vary according to the student's individual circumstances. The school counsellor and/or District Guidance Officer can assist in developing this response. Legal Services may be of assistance if legal issues arise". Instead, examples must be provided here within Bulletin 55. What should a teacher do if a transgender child is the subject of bullying in the playground because of their gender? What should a teacher do if a transgender child is the subject of bullying within the classroom because of their gender? They cannot ignore bullying in schools, but must be provided with the appropriate tools to intervene. Bulletin 55 must provide examples here that can be readily used. Education for all staff and all students must be provided to reduce the

	incidence of 'questions' arising, that does not centre any one particular transgender student.
53.	School counsellors often are not understanding of transgender youths' particular needs. This cannot be left to the school counsellor to develop a suggested response. Bulletin 55 must address this by removing references to the counsellor and provide solid usable examples.
53.	Place "legal services may be of assistance if legal issues arise" as its own bullet point at the end of the "other students" section.
54.	Replace "tolerance" with "acceptance"
55.	Under the heading 'Staff' include new stand alone point: "All education staff must be aware of the existence of Bulletin 55 and understand that there are transgender kids attending at every school in NSW, regardless of the children being 'out' or not"
57.	Replace "identifies as" with "is". Add additional sentence stating "It is never ok for school staff to disclose a students transgender status against the student's wishes"
58.	Insert new point under this paragraph stating "any teacher who intentionally and/or repeatedly misgenders a student must be removed from the child's classroom. This is psychological abuse and must not be tolerated by the school. It is not up to the student to have to change class."
59.	This section requires practical examples to assist schools.
60.	Remove second sentence entirely and replace with "The school must consult with the transgender student, and where applicable consult with their parents to consider developing a response".
62.	Replace entire paragraph with "All school media enquiries should be managed in accordance with the media protocol as with enquiries about all students"
64.	Remove the words "and be adversely affected by the impact of the student's transition on their family". Replace "has identified as" with "is".
65.	Include in the second sentence "... be sought from the student, their parents or carers to..."
66.	If school counsellors are recommended here as the support for legal interpretation and actions, then they must have mandatory training each year and provided with examples to use. If no mandatory training is in place then remove the sentence "the school counsellor may be able to assist in this regard" and provide details of the department's best point of contact for assistance in these circumstances.
68.	First sentence: Replace "identifying as being" with "sharing they are". Second sentence: Replace "identifying as" with "being"
71.	Transgender students must be able to enrol in a single sex school as the gender they know themselves to be.
73.	Replace "has identified as being" with "is"
74.	Include two new sentences at the paragraph's beginning: "Records about transgender students will normally mimic notes about cisgender students. As such usual record keeping requirements apply".
76.	All Principal Education Officers, Learning and Engagement Coordinators must undergo annual training in common issues schools face regarding transgender students.
77.	Links to resources need to be provided here that schools can share with parents and students. Recommend new headings "Resources available to support students" and another heading "Resources available to support families"

87.	Replace heading with "Sample plans"
88.	Sample support and risk management plans need to be expanded significantly here, including samples of practical advice for classroom conversations with students and one with parents. Samples of practical advice for classroom interactions with students and one with parents. Samples of practical advice for educational experiences with students and with parents.
88.	Further additional examples are required: A sample plan for a student who is supported by their parents. A sample plan for a student who does not have the support of their parents. A sample plan for a binary transgender student. A sample plan for a non-binary transgender student.
88.	Immediate whole-school educative approaches are needed both theoretically and practically here also.

TAB D – Recommendations for improved communication of Bulletin 55

For NSW Department of Education

From the anecdotal experiences of hundreds of parents across NSW, public schools are not aware of the existence of Bulletin 55 despite it being the only tailored resource for supporting trans youth in schools and despite there being almost 30,000 transgender students in NSW schools each year.

To support school staff and students, communication of the existence of Bulletin 55 must be amplified. Most teachers want to support their students, and this will assist in informing teachers, principals and counsellors to optimise their core business outcomes. This will also support education staff in their core business and competency when communicating with parents and the wider community.

To assist with improved communication of Bulletin 55 we make the following recommendations to the Department of Education:

- Bulletin 55 must be available in a PDF format
- A link must be placed in all education staff annual mandatory training so that all staff know of its existence and where to find it to ensure they are able to meet their duty of care obligations to trans students in their school
- A professional development option of a Bulletin 55 in depth course needs to be an option for all education staff and compulsory for school counsellors
- Procure specialist NGO's such as ACON and Twenty10 to develop a resource that is a summarised handout for transgender youth about Bulletin 55, their rights, and where they can go for further support e.g. Twenty10, Headspace, transhub.org.au, The Gender Centre
- Procure specialist NGO's such as ACON and Twenty10 to develop a resource that is a summarised handout for parents of any student wanting further information about transgender youth listing a link to Bulletin 55 e.g. A Guide to Supporting young trans people at school

External Communications for the Department of Education

There is a definitive gap in knowledge about transgender youth in the NSW community and there must be freely available accessible education sessions for parents and general community members that genuinely seek to increase their knowledge with facts.

- Communicate with the P&C Association around the existence of Bulletin 55 as they may elect to provide information sessions for parents who may be interested in understanding the Bulletin and trans youth in more detail
- Communicate with Twenty10 or ACON around the existence of Bulletin 55 as they may elect to provide information sessions for parents who may be interested in understanding the Bulletin and trans youth in more detail
- Communicate with the Department of Family and Community Services around the existence of Bulletin 55 for transgender youth in out of home care so they can be effectively represented by their carers and FaCS

TAB E – Recommendations for improved implementation of Bulletin 55

For NSW Department of Education

From the anecdotal experiences of hundreds of parents across NSW, public schools are not aware of the existence of Bulletin 55 despite it being the only tailored resource for supporting trans youth in schools and despite there being almost 30,000 transgender students in NSW schools each year.

To support school staff and students, implementation of the objectives of Bulletin 55 must be improved. Most teachers want to support their students, and this will assist in teachers, principals and counsellors optimising their core business outcomes. This will also support school staff in their core business and competency when communicating with parents and the wider community.

To assist with improved implementation of the objectives of Bulletin 55 we make the following recommendations to the Department of Education:

- Mandatory professional development for all school counsellors and chaplains on issues that are individual to transgender youth, including affirmation, support and particular barriers that only transgender youth face. This professional development should be approved by NESAs. This intensive training session would be valid for three years with a short refresher course each year in between. As per the research attached, almost 3,000 transgender students seek counselling support solely through their school counsellor due to the barriers in seeking professional assistance outside of school. The information and support provided must therefore be mandatory, best practice and up to date.
- Procure a comprehensive resource program for all NSW Public schools that enables knowledge, action and optimisation of trans youth education by equipping all education staff with immediate and easily accessible resources for most situations that occur only to transgender youth.
- Procure a comprehensive education program for all students in NSW Public Schools at differing age-appropriate levels around the natural and normal existence of transgender youth. This provides education to their peers that trans kids are just like them, except we got their gender wrong at birth. E.g. trans youth can excel at mathematics, can excel at social interactions, can be heterosexual, gay, lesbian, bisexual+, asexual etc.
- Educate the entire school community on the difference between sexual orientation and gender identity- both staff and students. Starkly different and unfortunately a lot of adults do not know this.
- Introduce a pro-inclusion education program that is generalised for inclusion however also provides specific education on transgender members of our community for all students with age-appropriate material.

TAB F – Recommendations for the Hon. Victor Dominello MP

The Hon. Victor Dominello MP
Minister for Customer Service NSW

Via email:

18 May 2021

Dear Minister,

Re: Education Legislation Amendment (Parental Rights) Bill 2020

We have been given the opportunity to provide a response to the question on notice regarding the Education Legislation Amendment (Parental Rights) Bill 2020. The NSW Legislative Council supported in the majority for this intentionally discriminatory Bill to be explored formally and this letter forms part of our response to Questions on Notice.

We are a group of NSW parents and carers who seek to ensure all NSW transgender and gender diverse (trans) youth are treated with respect, fairness and equity in the same way that non-gender diverse youth are. This Bill makes the current dire situation for transgender youth even worse than it already is, legislates discrimination against our children and removes our right to parental primacy.

There are approximately 18,646 transgender students currently in NSW Public Schools and just under 10,000 in non-government schools¹.

Transgender in this submission is defined as: an umbrella term for people whose gender is different to the gender assigned to them at birth. This includes people who are gender diverse, outside of the gender binary and within the gender binaries. As a quick explanation, gender is who you go to bed *as*, sexuality is who you go to bed *with*. Transgender youth can be heterosexual, gay, lesbian, bisexual, queer, asexual and their gender status is very different to sexuality.

As part of our response to questions on notice, we note that for children to be engaged at school, recognised for who they know themselves to be, and not discriminated against on the basis of their gender, they need to be able to enrol in school with a birth certificate that matches who they are.

When transgender children enrol in a school in NSW they must provide a copy of their birth certificate. NSW legislation currently states that for a gender marker on their birth certificate to be amended to reflect who they are, transgender children must be surgically sterilised. This is an abhorrent requirement.

Transgender youth must be able to change gender on their own birth certificate themselves from age 14 onwards. This also enables trans youth to apply for their first part-time job without 'outing' themselves. With parent support transgender youth must be able to amend gender on their birth certificate at any age.

Notes on age:

- **Age 10:** The age children in NSW can be held criminally responsible

- **Age 12:** The age youth in NSW are presumed capable of providing proper instructions to their legal representative
- **Age 14:** The age youth in Australia can attend a GP under Medicare without parental knowledge of the appointment and obtain most medical care without parental knowledge or permission, youth are all held criminally responsible across Australia from this age
- **Age 16:** The age youth in NSW can obtain a learner drivers license, can consent to sex, most medical treatment without parental authority

This is a dire situation for a cohort of NSW children that their state demands surgical sterilisation of them if they want their state issued identity documents to match who they know themselves to be. This impacts on their psychological well-being and optimal education outcomes as they absorb from government requirements that there is something wrong with them (internalised transphobia) even though transgender youth are a natural, normal (and awesome!) part of every community on earth.

This Bill seeks to deny all students learning about the diversity of their peers and in conjunction with governments demanding they surgically sterilise themselves if they want identity documents that reflect who they are, their internalised transphobia is magnified.

We would be pleased to meet with you to discuss birth certificate reform that is urgently needed to support our already vulnerable and marginalised youth who are now further targeted by intentionally discriminatory Bills and inquiries such as this.

Yours faithfully,

Lannen Stapleton
She/Her
Executive Director
Parents for Transgender Youth Equity

Carlie Morris
She/Her
Member
Parents for Transgender Youth Equity

1. There is no accurate data on how many transgender youth are enrolled in NSW schools. Fisher et al (2019) estimated that 2.3% of high-school-aged young people in Australia are transgender. There are currently 810,705 students in NSW government schools and 431,257 students in NSW non-government schools (ABS, 2021). Using Fisher et al's findings, this would equate to 18,646 transgender students in NSW government schools and just under 10,000 transgender students in NSW non-government schools. The majority of these students would not be out to their parents or carers as per Fenaughty et al.

Links to some references on age:

- [The Australian Human Rights Commission link to the UN's Convention on the Rights of the child Article 12, Article 16 and Article 38](#)
- [Children and Young Persons \(Care and Protection\) Act 1998 \(NSW\). Section 99C](#)
Child 12 or older and young person presumed capable of giving proper instructions
- [My Health Record](#). If you are 14 years or older, parents will no longer have access to your My Health Record unless you invite them.
- [Australian Law Reform Commission- Capacity and health information- Clause 68.50](#)
- [AMA discussion paper- age to access medical treatment independently of parents \(from 2004\)](#)
- Children not held criminally responsible for their actions until they are 10 years old for all NSW offences. The *Children (Criminal Proceedings) Act 1987* & the *Young Offenders Act 1997*.
- [NSW age of consent is 16- Section 66C](#)
- [Drivers License in NSW can be obtained from 16 years without parent permission](#)

TAB G – Recommendations for the Hon. Brad Hazzard MP

The Hon. Brad Hazzard MP
Minister for Health and Medical Research

Via SCHN Media Unit

18 May 2021

Dear Minister,

Re: Education Legislation Amendment (Parental Rights) Bill 2020

We have been given the opportunity to provide a response to the question on notice regarding the Education Legislation Amendment (Parental Rights) Bill 2020. The NSW Legislative Council supported in the majority for this intentionally discriminatory Bill to be explored formally and this letter forms part of our response to Questions on Notice.

We are a group of NSW parents and carers who seek to ensure all NSW transgender and gender diverse (trans) youth are treated with respect, fairness and equity in the same way that non-gender diverse youth are. This Bill makes the current dire situation for transgender youth even worse than it already is, legislates discrimination against our children and removes our right to parental primacy.

There are approximately 18,646 transgender students currently in NSW Public Schools and just under 10,000 in non-government schools¹.

Transgender in this submission is defined as: an umbrella term for people whose gender is different to the gender assigned to them at birth. This includes people who are gender diverse, outside of the gender binary and within the gender binaries.

As a quick explanation, gender is who you go to bed **as**, sexuality is who you go to bed **with**. Transgender youth can be heterosexual, gay, lesbian, bisexual, queer, asexual and their gender status is very different to sexuality.

As part of our response to questions on notice, we note that Sydney remains the only capital city in Australia without a multi-disciplinary gender clinic for transgender youth. This situation has been dire for trans youth and their families for over a decade. A fully-funded multi-disciplinary freely available timely service is desperately needed to support NSW transgender and gender questioning students and their family's.

We absolutely agree with the common sentiments that no youth should be medically affirmed as transgender, if they are not transgender. A fully-funded multi-disciplinary gender clinic would provide assurity for youth, their families and the wider community that only transgender youth have access to potential medical affirmation (where appropriate for their individual circumstances, noting that not all youth that are transgender need or want affirmation procedures). Without a current clinic, youth and their families are left to themselves to navigate an inadequate, fractured and inaccessible health system which leads to inexperienced health professionals doing their best which can unfortunately lead to incorrect services being provided, which nobody wants. This then leads to misconceptions in the community about trans youth. This also

impacts schools who are unsure about professional support for trans youth and/or their families.

Affirmative care for our kids is necessary for our kids to thrive. We know this from the thousands of kids across Australia that have received affirmative treatment and care which has enabled them to then live their lives to their potential.

An overwhelming number of our kids go through the following exact timeline:

- suffered from depression
- came out as transgender
- were affirmed by their parents and then received affirming individualised medical support
- depression dissipates, they then thrive equal to their cisgender peers

This constantly repeated experience is proof positive affirmative treatment, care and support is best-practice, vital and the only option for our kids. We expect our state government to support the children of NSW and parents who love and support their children to allow them to thrive and reach their potential to contribute to family and society. This must include transgender and gender diverse children.

We would be pleased to meet with you to further discuss a Sydney gender clinic that is urgently needed to support our already vulnerable and marginalised youth who are now further targeted by intentionally discriminatory Bills and inquiries such as this.

We feel confident that we have the exact same goals- that of NSW parents being empowered to raise happier and healthier children. We know this is the only outcome that can be gained by supporting, affirming and loving our children and we need a holistic fully funded multi-disciplinary service to do this.

Yours faithfully,

Lannen Stapleton
She/Her
Executive Director
Parents for Transgender Youth Equity

Carlie Morris
She/Her
Member
Parents for Transgender Youth Equity

1. There is no accurate data on how many transgender youth are enrolled in NSW schools. Fisher et al (2019) estimated that 2.3% of high-school-aged young people in Australia are transgender. There are currently 810,705 students in NSW government schools and 431,257 students in NSW non-government schools (ABS, 2021). Using Fisher et al's findings, this would equate to 18,646 transgender students in NSW government schools and just under 10,000 transgender students in NSW non-government schools. The majority of these students would not be out to their parents or carers as per Fenaughty et al.

TAB H – Recommendations for NSW Public Service Commissioner

Ms Kathrina Low
NSW Public Service Commissioner
Level 4
255 George Street
SYDNEY NSW 2000

Via email

18 May 2021

Dear Ms Low,

Re: Education Legislation Amendment (Parental Rights) Bill 2020

We have been given the opportunity to provide a response to the question on notice regarding the Education Legislation Amendment (Parental Rights) Bill 2020. The NSW Legislative Council supported in the majority for this intentionally discriminatory Bill to be explored formally and this letter forms part of our response to Questions on Notice.

We are a group of NSW parents and carers who seek to ensure all NSW transgender and gender diverse (trans) youth are treated with respect, fairness and equity in the same way that non-gender diverse youth are. This Bill makes the current dire situation for transgender youth even worse than it already is, legislates discrimination against our children and removes our right to parental primacy.

There should be approximately 7,590 full-time transgender employees in the NSW public sector workforce⁵.

Transgender in this submission is defined as: an umbrella term for people whose gender is different to the gender assigned to them at birth. This includes people who are gender diverse, outside of the gender binary and within the gender binaries.

As a quick explanation, gender is who you go to bed *as*, sexuality is who you go to bed *with*. Transgender youth can be heterosexual, gay, lesbian, bisexual, queer, asexual and their gender status is very different to sexuality.

As part of our response to questions on notice, we note that our children need to see themselves reflected throughout all positions that service the community. When they see themselves, they can be themselves. This leads to optimised education outcomes for our children and will lead to confident adults emerging from educational institutions knowing they have equity in their ambitions compared to their non-transgender peers.

For this to occur, we strongly recommend the PSC adopts a target of at least 2% of all NSW public service employees identifying as transgender by 2025. This includes every role where our kids see people serving the public: teachers, health workers, public transport workers, fire and emergency services. Transgender people are one of the most under-employed communities across the world, particularly transgender women of colour and Aboriginal and Torres Strait Islander trans women.

Our children's psychological well-being and optimal education outcomes are diminished as they currently absorb from the community that there is something wrong with them (internalised transphobia) even though transgender people are a natural, normal (and awesome!) part of every community on earth. Our children need the public sector to significantly increase employment of transgender people for their very futures.

This Bill seeks to deny all students learning about the diversity of their peers and in conjunction with little to no visibility of trans people in the public sector, their internalised transphobia is magnified.

We would be pleased to meet with you to further discuss an employment target for NSW that we consider is urgently needed to support not only NSW transgender youth, but all transgender community members in NSW.

Yours faithfully,

Lannen Stapleton
She/Her
Executive Director
Parents for Transgender Youth Equity

Carlie Morris
She/Her
Member
Parents for Transgender Youth Equity

5. We assume there is no accurate data on how many full-time transgender employees work for the NSW public sector. iworkforNSW states there are currently 330,000 full-time employees in the NSW public sector. Fisher et al (2019) estimates that 2.3% of high-school-aged young people in Australia are transgender and we consider that to be a reliable estimate of the transgender adult population, whether 'out' or not.

TAB J – Recommendations for the Hon. Mark Speakman SC MP

The Hon. Mark Speakman SC MP
Attorney General of NSW

Via email

18 May 2021

Dear Attorney General,

Re: Education Legislation Amendment (Parental Rights) Bill 2020

We have been given the opportunity to provide a response to the question on notice regarding the Education Legislation Amendment (Parental Rights) Bill 2020. The NSW Legislative Council supported in the majority for this intentionally discriminatory Bill to be explored formally and this letter forms part of our response to Questions on Notice.

We are a group of NSW parents and carers who seek to ensure all NSW transgender and gender diverse (trans) youth are treated with respect, fairness and equity in the same way that non-gender diverse youth are. This Bill makes the current dire situation for transgender youth even worse than it already is, legislates discrimination against our children and removes our right to parental primacy.

There are approximately 18,646 transgender students currently in NSW Public Schools and just under 10,000 in non-government schools¹.

We are concerned that further discriminatory Bills introduced by politicians who may use marginalised children for political capital, may be approved by the NSW parliament to be explored in the future which we consider to be something that our representatives should not be supporting. Most people in NSW do not want laws that intentionally discriminate against a cohort of children and this inquiry has harmed our children.

As part of our response to questions on notice, we note that NSW does not have a Human Rights Act is desperately needed to ensure discrimination against students based on their gender status does not occur in NSW. This would stop intentionally discriminatory Bills of the future that seek to harm NSW's most marginalised being endorsed by the parliament for formal inquiry. A Human Rights Act would also benefit all residents of NSW.

Transgender in this submission is defined as: an umbrella term for people whose gender is different to the gender assigned to them at birth. This includes people who are gender diverse, outside of the gender binary and within the gender binaries.

As a quick explanation, gender is who you go to bed *as*, sexuality is who you go to bed *with*. Transgender youth can be heterosexual, gay, lesbian, bisexual, queer, asexual and their gender status is very different to sexuality.

Our children can be legally discriminated against in NSW as follows:

- Currently in NSW trans youth are not protected from discrimination if they are non-binary and/or bisexual and on the basis of their sex characteristics.
- Currently in NSW trans youth have no protections against discrimination by religious organisations for being transgender.
- Currently in NSW if a student finds the way to share that they are transgender, they are not protected against discrimination by religious schools and they can be expelled immediately. Even if they are close to completing Year 12.
- Currently in NSW students are only partially protected against discrimination due to being non-binary, bisexual and/or due to their sex characteristics.

This reflects a dire situation for a cohort of NSW children. This impacts on their psychological well-being and optimal education outcomes as they absorb from the community growing up that there is something wrong with them (internalised transphobia) even though transgender youth are a natural, normal (and awesome!) part of every community on earth. This Bill seeks to deny all students learning about the diversity of their peers which we consider is not something the NSW Parliament would encourage in any circumstances. We believe that the NSW Parliament should be encouraging students to learn about their peers and the world, not denying them information about people in their community, who are part of their families, and with whom they work and socialise. .

We would be pleased to meet with you to further discuss a Human Rights Act for NSW. We consider it urgently needed to protect the NSW community from further intentional attacks via parliament and the wider community and conversely improve the current dire situation for all NSW trans youth.

Yours faithfully,

Lannen Stapleton
She/Her
Executive Director
Parents for Transgender Youth Equity

Carlie Morris
She/Her
Member
Parents for Transgender Youth Equity

1. There is no accurate data on how many transgender youth are enrolled in NSW schools. Fisher et al (2019) estimated that 2.3% of high-school-aged young people in Australia are transgender. There are currently 810,705 students in NSW government schools and 431,257 students in NSW non-government schools (ABS, 2021). Using Fisher et al's findings, this would equate to 18,646 transgender students in NSW government schools and just under 10,000 transgender students in NSW non-government schools. The majority of these students would not be out to their parents or carers as per Fenaughty et al.

TAB K – Recommendations for the Hon. Michael Sukkar MP

The Hon. Michael Sukkar MP
Assistant Treasurer

Via ABS email

18 May 2021

Dear Assistant Treasurer,

Re: Education Legislation Amendment (Parental Rights) Bill 2020

We have been given the opportunity to provide a response to the question on notice regarding the NSW Education Legislation Amendment (Parental Rights) Bill 2020. The NSW Legislative Council supported in the majority for this intentionally discriminatory Bill to be explored formally and this letter forms part of our response to Questions on Notice.

We are a group of NSW parents and carers who seek to ensure all NSW transgender and gender diverse (trans) youth are treated with respect, fairness and equity in the same way that non-gender diverse youth are. This Bill makes the current dire situation for transgender youth even worse than it already is, legislates discrimination against our children and removes our right to parental primacy.

Transgender in this submission is defined as: an umbrella term for people whose gender is different to the gender assigned to them at birth. This includes people who are gender diverse, outside of the gender binary and within the gender binaries.

As a quick explanation, gender is who you go to bed *as*, sexuality is who you go to bed *with*. Transgender youth can be heterosexual, gay, lesbian, bisexual, queer, asexual and their gender status is very different to sexuality.

As part of our response to questions on notice, we note that there is absolutely no data collected of how many transgender students attend education facilities on an annual basis. Using the most current peer-reviewed research we are able to establish that:

there are just under 100,000 transgender students currently attending Australian Schools each year⁶.

The Federal Government Census introduction of an option to enable every person in Australia to easily self-identify themselves or their children as transgender will enable improved understanding of the current situation in schools. Currently the census does not contain this field on their form. However, to assess student numbers more accurately, we require the Australian Census to provide community members with an option to confirm if they are transgender.

This is a reflection on the current dire situation for a cohort of Australian children. This impacts on their psychological well-being and optimal education outcomes as they absorb from the community growing up that there is something wrong with them (internalised transphobia) even though transgender youth are a natural, normal (and awesome!) part of every community on earth. This Bill seeks to deny all students

learning about the diversity of their peers which we consider is not something the Australian parliament would encourage.

We would be pleased to meet with you to further discuss the easy availability of a census field to determine the extent of the number of trans youth across Australia.

We feel confident that we have the exact same goals- that of Australian parents being empowered to raise happier and healthier children. We know this is the only outcome that can be gained by supporting, affirming and loving our children and this includes their presence in the national census.

Yours faithfully,

Lannen Stapleton
She/Her
Executive Director
Parents for Transgender Youth Equity

Carlie Morris
She/Her
Member
Parents for Transgender Youth Equity

6. There is no accurate data on how many transgender youth are enrolled in Australian schools. Fisher et al (2019) estimated that 2.3% of high-school-aged young people in Australia are transgender. There are currently 4,006,974 students in attending Australian schools each year (ABS, 2020). Using Fisher et al's findings, this equates to just under 100,000 transgender students in Australian schools. The majority of these students would not be out to their parents or carers as per Fenaughty et al.

TAB L – Recommendations for the Hon. Stuart Ayres MP

The Hon. Stuart Ayres MP
Minister for Jobs, Investment, Tourism & Western Sydney

Via email

18 May 2021

Dear Minister,

Re: Education Legislation Amendment (Parental Rights) Bill 2020

We have been given the opportunity to provide a response to the question on notice regarding the Education Legislation Amendment (Parental Rights) Bill 2020. The NSW Legislative Council supported in the majority for this intentionally discriminatory Bill to be explored formally and this letter forms part of our response to Questions on Notice.

We are a group of NSW parents and carers who seek to ensure all NSW transgender and gender diverse (trans) youth are treated with respect, fairness and equity in the same way that non-gender diverse youth are. This Bill makes the current dire situation for transgender youth even worse than it already is, legislates discrimination against our children and removes our right to parental primacy.

Transgender in this submission is defined as: an umbrella term for people whose gender is different to the gender assigned to them at birth. This includes people who are gender diverse, outside of the gender binary and within the gender binaries.

As a quick explanation, gender is who you go to bed *as*, sexuality is who you go to bed *with*. Transgender youth can be heterosexual, gay, lesbian, bisexual, queer, asexual and their gender status is very different to sexuality.

As part of our response to questions on notice, we note that Sydney has only two years to prepare to host the world's media for WorldPride 2023. We are excited and our kids are excited. However, as NSW residents we are also concerned that NSW is not ready.

The following changes are required to ensure Sydney and NSW puts its best foot forward and these changes must be implemented prior to 2023:

1. A Human Rights Act that covers the NSW community to ensure discrimination against people based on their gender status does not occur in NSW. This would also stop intentionally discriminatory Bills of the future that seek to harm NSW's most marginalised being endorsed by the parliament for formal inquiry.
2. Sydney remains the only capital city in the whole of Australia without a multi-disciplinary gender clinic for transgender youth. This must change. Urgently.
3. Transgender people in NSW must be surgically sterilised to amend gender on their birth certificate if they want their state issued identity documents to match who they know themselves to be. This is abhorrent and must stop.
4. An education program for all NSW students that acknowledges and celebrates the diversity of humans, including their transgender peers. There are just under

30,000 transgender students in NSW schools annually¹ and transgender youth are a natural, normal (and awesome!) part of every community on earth.

5. The NSW public service must demonstrate equity to the transgender community in all possible ways, including reflecting the people of NSW in their employment levels of which transgender people should consist of at least 2%.

Most people in NSW do not want children harmed, such are the intentions of this discriminatory Bill and inquiry. The world's media will be shocked to learn that Sydney WorldPride is being hosted to the last state and territory of Australia that still requires transgender people to be surgically sterilised so their identification documents match who they are. They will also be shocked to learn that Sydney remains the only capital city in Australia without a multi-disciplinary gender clinic for trans youth.

The situation is already dire for these NSW children who will be the next generation of trans adults and the international media will wonder what we are doing to assist them when we have the opportunity. Their psychological well-being is currently impacted and optimal education outcomes are not achieved as they absorb from the community growing up that there is something wrong with them (internalised transphobia) even though transgender youth are a natural, normal (and awesome!) part of every community on earth.

This Bill seeks to intentionally deny all students learning about the diversity of their peers which we consider is not something the Minister for Destination NSW would encourage in any circumstance.

We would be pleased to meet with you to further discuss options to improve the current dire situation for all NSW trans youth and put our best foot forward in 2023.

Yours faithfully,

Lannen Stapleton
She/Her
Executive Director
Parents for Transgender Youth Equity

Carlie Morris
She/Her
Member
Parents for Transgender Youth Equity

1. There is no accurate data on how many transgender youth are enrolled in NSW schools. Fisher et al (2019) estimated that 2.3% of high-school-aged young people in Australia are transgender. There are currently 810,705 students in NSW government schools and 431,257 students in NSW non-government schools (ABS, 2021). Using Fisher et al's findings, this would equate to 18,646 transgender students in NSW government schools and just under 10,000 transgender students in NSW non-government schools. The majority of these students would not be out to their parents or carers as per Fenaughty et al.

TAB M – The current research

Definition for the purpose of this research summary:

Transgender- an umbrella term for people whose gender is different to the gender assigned to them at birth. This includes people who are gender diverse, outside of the gender binary and within the gender binaries.

Introduction

At an individual level, the Oxford English Dictionary (2020) defines marginalisation as “the process or result of making somebody feel as if they are not important and cannot influence decisions or events; the fact of putting somebody in a position in which they have no power”.

Discrimination can be direct – where a person is subjected to a disadvantage because of their protected characteristic – or indirect – where the application of a uniform standard results in a particular disadvantage for persons sharing a particular characteristic (Equal Rights Trust 2008). Discrimination also includes harassment – unwanted conduct which creates an environment which is hostile, degrading or humiliating to those with a particular characteristic – and the failure to make reasonable accommodation for persons with different capabilities (Equal Rights Trust 2008).

Corruption severely affects these communities by undermining economic development, exacerbating inequality and skewing resource distribution to the advantage of the powerful (Bullock et al, 2017).

Without political, economic and social visibility, marginalised communities are less able to challenge coercive corrupt practices that deprive them of their needs and entitlements on the basis of their identity or seek recourse when they bear the cost of collusive corrupt arrangements to which they are not party.

This Bill intentionally seeks to marginalise and discriminate against transgender youth which will exacerbate their inequality, access to education and will likely provide political advantage to powerful legislators that appear to seek to harm children of NSW for increasing political capital.

Current situation for trans youth

Minority stress research confirms that the increased amounts of stress and mistreatment experienced by transgender youth are the drivers that underpin increased rates of depression, self-harm and suicide attempts. Transgender youth currently are not engaged in their day-to-day education in the majority due to the current situation.

Transgender people have negative experiences on a daily basis across the world due to stigma, “being viewed by others in society as sexually deviant, morally corrupt, unnatural, or mentally disordered” and can be classified as “minority stress” which leads to “poor health and wellbeing” and can include experiencing “discomfort or distress where opportunities to express that identity are denied them or where that identity is not respected” (Winter et al, 2016).

There is no accurate data on how many transgender youth are enrolled in NSW schools given that research has found that a lot of transgender youth “never ‘come out’ at school due to fear of discrimination and harassment” (Rands, 2009), nonbinary young people

are less likely to be out at school (Allen et al, 2020) and research has found a significant number of trans people were older than 18 years of age when they initially accessed trans specific services which indicates they may have waited to do so without parental support or knowledge (Strauss et al, 2021). In addition to this, no NSW or federal government entity records diverse gender status' of the population.

Fisher et al (2019) estimated that 2.3% of high-school-aged young people in Australia are transgender. There are currently 810,705 students in NSW government schools and 431,257 students in NSW non-government schools (ABS, 2021). Using Fisher et al's findings, this would equate to 18,646 transgender students in NSW government schools and just under 10,000 transgender students in NSW non-government schools.

The Youth19 research group in New Zealand found that only 31% of transgender school students have told "parents or caregivers" of their transgender status, with 66% having told at least one person, 52% told close friends (Fenaughty et al, 2021) and therefore we can confidently conclude that the majority of transgender students in NSW are not out to their parents or carers. This makes education facilities critical to being a safe and supportive place for all trans youth.

Fenaughty et al (2021) also found that on all their measures (apart from volunteering) a greater proportion of trans youth report challenges than their cisgender peers do, including at home; in school, community and healthcare settings; and in their own mental health and wellbeing, as shown here:

Measure	Transgender and diverse gender students % (95% CI)	Cisgender students % (95% CI)
A parents cares a lot	64.3 (51.6 – 77.0)	93.9 (93.2 – 94.5)
Part of school	70.0 (58.6 – 81.3)	87.1 (86.2 – 88.0)
Weekly (or more) bullying	23.2 (12.4 – 34.1)	5.0 (4.4 – 5.6)
Volunteering*	61.7 (48.3 – 75.0)	54.2 (52.8 – 55.6)
Safe in neighbourhood	31.7 (19.2 – 44.2)	58.3 (57.0 – 59.7)
Forgone healthcare	54.7 (41.6 – 67.8)	19.9 (18.8 – 21.0)
Depressive symptoms	56.6 (43.4 – 69.8)	22.6 (21.4 – 23.8)
Self harm	56.9 (44.1 – 69.7)	22.1 (21.0 – 23.3)
Suicide attempt	26.4 (13.2 – 39.5)	5.9 (5.3– 6.5)

We know that caring and loving family relationships are central to young people's development and wellbeing. It is very concerning that lower proportions of transgender youth report their families care about them a lot. This may be related to families not understanding or accepting their young person's gender. This perceived lack of care, combined with a lack of belonging at school for some of these students, means they may be particularly vulnerable to harm.

The findings also indicate that social and school environments need to change, to address the active exclusion and mistreatment of these young people.

Misgendering, which occurs to transgender youth in playgrounds regularly as part of their particular bullying, is disrespectful of an individual's gender identity such as use of incorrect pronouns. When this occurs in professional settings, it is a stigmatising and potentially traumatic experience which and can lead to an avoidance of health care services later in life (Dolan et al, 2020) (Riggs et al, 2014).

Currently Australian transgender youth experience peer rejection (89% of transgender youth), experience bullying (74% of transgender youth), experience mental health

difficulties leading to self-harming behaviours (79.7% of transgender youth) and attempted suicide (48.1% of transgender youth) (Strauss et al, 2017). Just under 40% of transgender youth under the age of 25 made a suicide attempt (James et al, 2016). Three in four transgender youth in Australia have been diagnosed with depression and/or anxiety, and almost one in two have attempted suicide (Strauss et al, 2020).

Trans youth in Australia experience barriers in accessing mental health services, even when they are seeking support for general mental health concerns that may not be directly related to gender identity or gender-affirming medical interventions (Riley et al., 2011). Service providers that specialise in trans mental health often have long waiting lists (Erasmus et al., 2015), which further contributes to poor outcomes (Rotondi et al., 2013). Furthermore, trans youth may be hesitant to access mental health services due to stigma and the expectation of discrimination from health professionals (Ho and Mussap, 2017; Telfer et al., 2018). Geographical barriers for trans youth who live in rural locations may also prevent access to both mainstream and specialised services (Telfer et al., 2018). Such barriers to health care pose a threat to the resilience of trans youth (Singh et al., 2014). The sense of isolation from services that trans youth experience has been associated with symptoms of depression and anxiety, as well as higher rates of self-reported self-harming behaviours and suicide attempts (Strauss et al., 2020a).

Despite transgender youth experiencing compromised mental health and personal safety, they describe more difficulty accessing health care (Fenaughty et al, 2021) with lengthy waits to be seen by a psychological professional causing adverse mental health experiences among transgender young people (Rotondi et al, 2013).

Just over 10% of transgender students see their university or school psychologist for mental health support and are only usually able to obtain initial appointments quickly once they have experienced suicidal thoughts and behaviours. Further, many of these students sought therapy for multiple issues such as 'gender dysphoria and associated stress and academic struggles and anxiety' and how to 'navigate the world' including relationships with families, school and friends (Strauss et al, 2021). The inability to access affirming mental health care impacts greatly on their engagement in schools already.

A 2017 Human Rights Campaign Foundation report found that while 68 percent of young people participate in organised sports, only 12 percent of transgender girls do. That means transgender students are less likely to reap the rewards of athletic participation, which includes improved academic performance, better physical and mental health, meaningful and even life-changing social ties, and other benefits that help build healthy and fulfilling lives (Sharrow, 2021).

Transgender youth face substantial health and well-being inequities. Students who are transgender, not sure of their gender, or do not understand a question about being transgender are at increased risk of violence, being bullied, having physical fights, depressive symptoms, and suicide attempts, and being unable to access health care compared with their non-transgender peers with one in five transgender students reporting experiencing bullying at school on a weekly (or more frequent) basis. This is similar with other research that shows transgender young people are at greater risk of mistreatment, depression, self-harm, and suicide (Clark et al, 2014). This research also demonstrates that harm can occur to students who are denied information about what it means to be transgender, which is also the intent of this Bill.

Already there is little intervention from school personnel when verbal and physical transphobic bullying occurs (Gonzalez & McNulty, 2010). At the end of June 2017 the

Safe Schools Coalition Australia program ceased operating in NSW (NSWTF, 2017) whose purpose was “born out of the need identified by school communities, parents and teachers for greater support for LGBTI students, who are at higher risks of bullying and suicide, and to ensure that schools create safe and inclusive environments” (Safe Schools). Removal of the Safe Schools program has ensured continuation of the significantly high rates of bullying and suicide of trans youth.

Despite the high levels of challenges reported by transgender youth, their generosity to give back to others and support their communities exceeds that of cisgender students. Such willingness to support others is an important strength to celebrate, cultivate and nurture, and not take advantage of with an intentionally discriminatory Bill.

The Bill

There is a worldwide regression or stagnation in legal gender recognition rights (Pereira, J, 2019) and using seemingly innocuous laws to systemically target transgender people is damaging (Chiam, 2019). Many researchers and medical professionals have warned these youth are already susceptible to high rates of suicide and depression and Bills that target and harm transgender youth introduced into legislatures exacerbate this (Yu and Mangrum, 2021).

The increase in anti-trans youth Bills have been argued by proponents to allow parents to make choices for their children instead of the government however many concerns regarding these Bills have been raised (HRC, 2021). Students themselves have pointed out that the students who need to be taught about transgender issues the most “are also the students whose parents are going to opt them out of this. The students who really need to be learning these things and unlearning certain biases wouldn’t be able to” (Krishnakumar, 2021). In addition to this, these Bills remove the ability of parents of transgender youth to make choices for their children- this is in direct contradiction to the Bill’s purported intention. Our parental primacy is removed.

Mr Latham has participated in many interviews stating that children learning about the existence of transgender and gender diverse people is a “sickness” and “child abuse” (2020) and “indoctrination” (2021) so the intent is clear regardless of the Bill’s wording.

Moral, ethical, political and social views are multi-faceted and individual to each parent and each child. There are no agreed morals, ethics, politics or social views for every parent in NSW, or the world for that matter. These are very personal and individual views and positions.

Where there is legislation to deny the existence of transgender youth in all NSW government schools this will lead to increased self-harm rates of an already marginalised, stigmatised and largely unsupported community of children.

Teachers have said that anti-trans youth legislation is “detrimental to the success and well-being of students and staff. As educators, we have the duty to provide our students with the skills and knowledge they need to navigate the world” which includes recognising and supporting the transgender community. Further, another educator stated that anti-trans legislation will harm students as lawmakers attempt to use arguments about what is right or wrong to restrict teachers from using affirming materials for transgender youth and these youth “deserve to see themselves mirrored in the curriculum” (HRC, 2021).

A sociology teacher stated that she tells her students regularly that “it is not our job to decide what is right and wrong in our society or culture. We do not debate the existence of groups of people or their right to exist because they exist whether we believe they do. We should not be prioritising one student’s comfort over another student’s very existence” (Krishnakumar, 2021).

The definition of “gender fluidity” outlined in this proposed legislation is not a common definition for transgender people (Cook, 2021), and as such the legislation is flawed in what aspect of transgender people’s existence is attempting to be outlawed.

The proposed legislation specifically states that school counsellors would not be able to educate students on transgender people existing. However, it has been argued that school counsellors must be willing to advocate for a more affirming school climate, one that addresses systems of oppression, such as sexism and heterosexism, from which transphobic bullying stems (Gonzalez & McNulty, 2010).

Access to ongoing psychological support is significantly limited for many transgender youth due to cost and travel issues and transgender youth have negative experiences with psychological services when they felt invalidated and dismissed for wanting to talk to a professional about gender (Strauss et al, 2021). This Bill prohibits school counsellors from validating transgender youth and a general ability to talk about gender with students which will worsen outcomes.

The situation for transgender youth in NSW public schools is already dire as demonstrated in literature after literature. This Bill would make a known dire situation worse and prevent education staff from supporting at-risk youth.

This Bill would worsen all aspects of the experience of transgender youth by prohibiting school staff from educating student peers or affirming a newly out transgender student.

This Bill would enable transphobic bullying to flourish unobstructed in all public-school environments as staff would not be able to intervene and tell other students that it is natural and normal for transgender youth to be a part of every community on earth.

This Bill would make it more difficult for transgender girls to access the benefits of sport due to the increased stigma that would be applied in the educational setting.

The NSW Education Department states their purposes is “to prepare young people for rewarding lives as engaged citizens in a complex and dynamic society” and this would need to be disregarded in its entirety by the Department if this Bill proceeds as young people would not be prepared at all to engage in the outside world.

Reasons for anti-trans youth Bills

We do not purport to understand why our children have been intentionally targeted to be harmed by legislation, however researchers have started to explore this outside of NSW.

Reasons for anti-trans legislation include increasing political capital, averting focus from corruption, fundraising model for the religious right and/or a smokescreen for other political agendas (Shepard, 2021). Politicians may also use anti-trans legislation to obtain funding from the religious right.

Marginalised groups suffer from higher rates of being victims of coercive corruption, and corrupt actors intentionally targeting them for exploitation is not new across the world.

The interplay between discrimination and corruption often becomes apparent when politicians use the LGBTI community as a scapegoat such as an attack seeking to redefine corruption from an “economic” or “political” problem to an overwhelmingly moral issue for which marginalised groups are responsible. Examples of politicians claiming LGBTI people are a threat to culture and national values do not include Australia to date. There is growing evidence of the complex correlation between discrimination and corruption. Morally charged attacks raised by politicians result in increased physical risks for the LGBTI community where other parts of society adopt these sentiments and act with prejudice, violence or hatred. This particular form of corruption affects LGBTI people with complex links to discriminatory practices (Bullock and Jenkins, 2020).

No further intentionally discriminatory Bills that target our children should proceed to inquiry through the NSW parliament, to ensure our innocent, precious and already marginalised children are protected. None of the reasons found in this worldwide research applies to NSW, however it is wise to have awareness of these concerns as we do not wish for NSW to one day find themselves joining these research findings.

Solutions

Given the significant challenges facing transgender and diverse gender young people at home and in their neighbourhoods, schools, and health care settings, urgent steps are required to mitigate these inequalities. We all share the responsibility to create safe and nurturing environments so that transgender youth can flourish.

Schools and healthcare settings should have statutory and ethical obligations to provide safe and welcoming environments for transgender youth. NSW parliament should ensure this is paramount and included in all relevant legislation.

As more trans youth find the words to share that they know who they are, increasing research demonstrates that affirming trans youth as the gender they know themselves to be by parents, carers, teachers and the wider community, greatly supports trans youth to experience the same mental health and wellness as their cisgender peers.

Trans youth are more likely to experience mental health issues such as anxiety and depression and experience homelessness when their parents and carers and teachers reject them or are hostile to them for sharing who they know themselves to be.

The immediate solution to the current dire situation for trans youth is to have parents, carers, teachers and the wider community affirm them for who they are.

Fenaughty et al

Possible solutions by Fenaughty et al (2021) include:

- Review and apply guidelines and recommendations in peer-reviewed publications that focus on making schools safer for transgender youth
- Provide practical resources for schools and family on supporting transgender youth.
- Implement a program endorsed by NESA that is similar to that of InsideOUT from the New Zealand Ministry of Education.
- Create an inclusive education guide on supporting LGBTIQ+ students in secondary schools.
- Introduce inclusive relationships and sexuality education in all schools.

- Create a guide for teachers, leaders and executives (including at least 12–15 hours of quality inclusive relationships and sexuality education per year as recommended by the New Zealand Education Review Office).

As well as ensuring the following documents emphasise that transgender youth should see themselves affirmed:

- Across the curriculum, and at all levels
- By other students and teachers
- In school policy (including uniforms, student records, bathrooms, anti-bullying and sports)
- In the support groups offered (e.g., gender and sexuality associations, diversity groups).

The support and love from families is crucial for transgender youth. Even if there are, or have been, challenges, maintaining or re-establishing relationships, it is one of the most important things for transgender youth's wellbeing, now and in the future. Resources and support groups for family of transgender youth should be available readily across NSW with schools able to easily share these details.

Allen et al

Possible solutions by Allen et al (2020) include:

Schools should implement programming that creates more inclusive schools for students of all gender identities and address bias-based bullying. This type of programming should be implemented in primary schools as a preventative measure to assist with creating safer education environments in later years. This should include sex education curricula that is inclusive and affirming to all gender identities and sexual orientations.

Advocacy and education for improved safety and environments should include the formation of Gender and Sexuality Alliances (GSAs) and incorporate a social and racial justice framework to ensure that the voices and experiences of transgender youth of colour, of various socioeconomic statuses, and of nonbinary and binary gender identities are heard and acknowledged. All schools should have enumerated policies that explicitly protect students from bullying, harassment and discrimination based on race, ethnicity, colour, national origin, sex, sexual orientation, gender identity and expression, disability, and religion.

Staff training around cultural competence and unconscious bias/privilege should include understanding of all transgender youth identities, as well as framing minority stress theory and the intersectional impact of holding multiple minority identities. Whilst nonbinary youth are less likely to be out at school, they are more likely than their binary transgender youth peers to access school staff as an important support in their community. This may be a particularly powerful connection given that nonbinary transgender youth are also less likely than their binary transgender peers to be out to their parents. There are multiple educational resources available with recommendations to assist schools in working toward such affirming and inclusive environments. Improving staff understanding of the full range of gender identities may create additional opportunities for connection and support for both nonbinary and binary-identified transgender youth.

Supportive education staff should be visible and identifiable. Creating safe spaces and connections between staff and students may encourage both more transgender youth to communicate their gender freely in the school setting and more transgender students to seek staff as a source of community and support. Recommendations for ways to increase

visibility include placing markers throughout the school that show support of LGBTQ+ (and specifically transgender) youth, school staff wearing visible markers to identify themselves as sources of support, and fostering discussion about LGBTQ+ allyship between supportive school staff and their colleagues.

Gonzalez & McNulty 2010

Possible solutions by Gonzalez & McNulty (2010) include:

The NSW Department of Education could proactively improve the education settings for transgender youth by raising four strategies to create a comprehensive framework that school counsellors can use to collaboratively advocate for systemic change on behalf of transgender youth:

Strategy 1: Effective Messaging: Laying the Groundwork for Collaboration.

Strategy 2: Student Empowerment (all students).

Strategy 3: Educating School Personnel.

Strategy 4: Beyond the Schoolhouse: Legislative and Community Collaboration.

The current gap demonstrates the need for counsellors to combine advocacy with competency in a manner specific to comprehensively serving the unique needs of transgender individuals, working with students, parents, school personnel, community members, and other stakeholders to foster a safer learning environment for transgender youth across the whole school.

Other research solutions

It is important to address the challenging environments these students face and to increase access to responsive services for transgender youth. Health professionals, schools, and the wider community need to consider that some of their members are transgender, and they should provide appropriate services and create safe environments in which adolescents can openly express gender diversity.

Furthermore, a positive youth development approach to transgender adolescents that focuses on building the young person's confidence, competence, and social connectedness will help to promote the resilience and healthy development of transgender youth (Clark et al, 2014).

Increasing the number of specialised gender clinics and training programmes for existing services would help to decrease wait times, improve the well-being of transgender youth and in turn optimise engagement and education outcomes. Advocacy, policy development and expansion of professional training programmes would reduce the negative experiences faced by transgender youth, including misgendering and discrimination (Acevedo-Polakovich et al., 2013), (Riggs et al., 2014).

These findings indicate the need for improved service provision through various strategies, including addressing affordability of ongoing mental health support, enhancing levels of professional awareness and understanding of gender diversity, and the removal of barriers to existing service and referral pathways. Improving the mental health care provided for transgender youth in NSW will help to minimise distress and address the high rates of mental ill-health in this population.

Transgender youth who are experiencing psychological distress or are reaching out for help need to be able to access support from professionals who are knowledgeable about gender diversity. To provide truly affirmative care, professionals should be accepting and

welcoming of the very core of the young person's identity. In addition to being knowledgeable about gender diversity, mental health professionals should also be aware of the high rates of mental health difficulties, self-harm and suicidality commonly experienced by transgender youth and the clinical complexity associated with these elevated rates (Bradlow et al., 2017; Strauss et al., 2020a). Professionals should also recognise that many transgender youth are exposed to negative life experiences, including trauma, discrimination and a lack of family support (Strauss et al., 2020b), which can have significant effects on their mental health, including affecting developmental milestones through adolescence to early adulthood (Dickey et al., 2017).

Entire school community education could decrease the prejudice against transgender youth because it would provide others a better insight into what life in that community is like. Transgender youth are real and deserve to be heard, and prohibiting recognition is quite ignorant. Social media could be an important part of community education, but often the media poorly and stereotypically depict transgender youth. Additionally, all transgender youth need and deserve to learn in settings that are safe and healthy. This needs to be inclusive of their experiences, which most teachers and textbooks fail to do. There needs to be more inclusive programs for gender identity and sexual orientation that are simultaneously medically accurate and dispel the common stereotypes of behaviour and identity. Discrimination is a constant force and if there is more education in school curriculums, there will be a better understanding of transgender youth. (Pellis, 2021)

Sports

Summary of Risa Isard's findings

Exclusion of trans girls from sport harms all girls.

Participation in sport by cisgender girls has declined over the past decade in US states where the school sport federation has trans-exclusive policies, where states with inclusive policies have seen girls continue to participate at their same rates. Exclusionary policies leave cisgender girls on the sidelines along with transgender girls. Sport can teach leadership, perseverance, goal-setting, and teamwork with all girls losing out on those benefits when exclusionary policies are instituted.

There is no evidence at the population level that trans girls are better at sports than cis girls. Research shows that asserting boys' athletic superiority through actions such as codifying it into law harms all girls through "stereotype threat" which refers to how people behave when they worry their behaviour may reinforce negative stereotypes.

Research over the last 20 years has found that stereotype threats become self-fulfilling prophecies, such as girls do worse at math when reminded of the stereotype that girls are not as good at math and perform better when not reminded. Research has found this is replicated when it comes to sports as girls perform worse at sport when reminded of the stereotype that girls are not as good at sports as boys. When cisgender girls hear that trans girls are prohibited from sport for her (cisgender) benefit, she ends up performing worse because she's told she's just not as good at sports as a trans girl.

The intended targets of these needless discriminatory policies obviously are harmed most which is sufficient reasons to stop them, however for those that intentionally wish to harm trans girls, they should be aware these policies also significantly harm cisgender girls.

Science does not support the argument that children assigned male at birth are inherently better at sports than children assigned female at birth. Trans and cis girls do not need to compete separately in order to “protect women’s sport” given there is no inherent superiority of one over the other at the population level and it actually hurts all girls to create exclusionary policies.

Summary

There are almost 30,000 transgender students in NSW schools who are being intentionally targeted by this discriminatory Bill that will hurt entire school communities and families. Social and school environments must change, to address the current active exclusion and mistreatment of these young people.

The research consistently shows that the current situation for transgender youth is already dire. Not for being transgender, but because of the barriers and exclusion the community puts to them which prevents our children achieving equity with their peers and often results in internalised transphobia.

Despite the high levels of challenges they face, our children are still beautiful in their generosity to give back to others and support their communities which exceeds that of cisgender students. Such willingness to support others is an important strength to celebrate, cultivate and nurture, and it is damning that this Bill intentionally seeks to hurt these children who give so much back to the community.

Students who do not understand a question about being transgender are at increased risk of experiencing bullying which demonstrates the harm that occurs to students who are denied information the existence of transgender youth, which is also the intent of this Bill. This Bill will harm all NSW children. This Bill also denies **us** parental primacy.

Educators summarised it well:

We have the duty to provide our students with the skills and knowledge they need to navigate the world. We do not debate the existence of groups of people or their right to exist because they exist whether we believe they do. We should not be prioritising one student’s comfort over another student’s very existence.

The research supports that this Bill must be rejected in full, with immediate improvements to the current situation implemented.

TAB N – Appendix and References

Appendix

1. There is no accurate data on how many transgender youth are enrolled in NSW schools. Fisher et al (2019) estimated that 2.3% of high-school-aged young people in Australia are transgender. There are currently 810,705 students in NSW government schools and 431,257 students in NSW non-government schools (ABS, 2021). Using Fisher et al's findings, this would equate to 18,646 transgender students in NSW government schools and just under 10,000 transgender students in NSW non-government schools. The majority of these students would not be out to their parents or carers as per Fenaughty et al.
2. The Youth19 research group in New Zealand found that approximately 4% of secondary school students reported that they were transgender or that they were unsure of their gender with only 31% of transgender school students having told "parents or caregivers" of their transgender status (Fenaughty et al, 2021).
3. A lot of transgender youth "never 'come out' at school due to fear of discrimination and harassment" (Rands, 2009), nonbinary young people are less likely to be out at school (Allen et al, 2020) and research has found a significant number of trans people were older than 18 years of age when they initially accessed trans specific services which indicates they may have waited to do so without parental support or knowledge (Strauss et al, 2021).
4. (Riley et al, 2013) (Riggs and Bartholomaeus, 2015)
5. We assume there is no accurate data on how many full-time transgender employees work for the NSW public sector. iworkforNSW states there are currently 330,000 full-time employees in the NSW public sector. Fisher et al (2019) estimates that 2.3% of high-school-aged young people in Australia are transgender and we consider that to be a reliable estimate of the transgender adult population, whether 'out' or not.
6. There is no accurate data on how many transgender youth are enrolled in Australian schools. Fisher et al (2019) estimated that 2.3% of high-school-aged young people in Australia are transgender. There are currently 4,006,974 students in attending Australian schools each year (ABS, 2020). Using Fisher et al's findings, this equates to just under 100,000 transgender students in Australian schools. The majority of these students would not be out to their parents or carers as per Fenaughty et al.

References

Australian Bureau of Statistics, Schools, released 19 February 2021
<https://www.abs.gov.au/statistics/people/education/schools/latest-release#:~:text=New%20South%20Wales%20810%2C705%20Government,%3B%2083%2C997%20Non%2DGovernment%20enrolments>

Acevedo-Polakovich, I, Bell, B, Gamache, P, et al. (2013) Service accessibility for lesbian, gay, bisexual, transgender, and questioning youth. *Youth & Society* 45: 75–97

Allen, Brittany J., Andert, Ben, Botsford, Jay, Budge, Stephanie L., Rehm, Jennifer L., At the Margins: Comparing School Experiences of Nonbinary and Binary-Identified Transgender Youth, *Journal of School Health*, Volume 90, Issue 5, 2020, Pages 358- 367

Bullock, Jessie; Jenkins, Matthew, Corruption and marginalisation, Literature Review, Transparency International Anti-corruption Helpdesk Answer, Transparency International <https://knowledgehub.transparency.org/helpdesk/corruption-and-marginalisation>

Chiam, Zhan, Trans Legal Mapping Report September 2020
https://ilga.org/downloads/ILGA_World_Trans_Legal_Mapping_Report_2019_EN.pdf

Clark, Terryann C., Lucassen, Mathijs F.G., Bullen, Pat, Denny, Simon J., Fleming, Theresa M., Robinson, Elizabeth M., Rossen, Fiona V., The Health and Well-Being of Trans High School Students: Results From the New Zealand Adolescent Health Survey (Youth'12), *Journal of Adolescent Health*, Volume 55, Issue 1, 2014, Pages 93-99

Cook, Teddy, NSW Parliament 20 April 2020 <https://www.youtube.com/watch?v=n4Or7-Rf9GM>

Dickey, LM, Singh, AA (2017) Finding a trans-affirmative provider: Challenges faced by trans and gender diverse psychologists and psychology trainees. *Journal of Clinical Psychology* 73: 938-944

Dickey, LM, Singh, AA, Walinsky, D (2017) Treatment of trauma and nonsuicidal self-injury in transgender adults. *Psychiatric Clinics of North America* 40: 41-50

Dolan, IJ, Strauss, P, Winter, S, et al. (2020) Misgendering and experiences of stigma within healthcare settings for trans individuals in Western Australia: Implications of structural policies and impacts on delivery of care. *Medical Journal of Australia* 12: 150-151.e151

Equal Rights Trust, Declaration of Principles on Equality 2008, <https://www.equalrightstrust.org/ertdocumentbank/Pages%20from%20Declaration%20perfect%20principle.pdf>

Erasmus, J, Bagga, H, Harte, F (2015) Assessing patient satisfaction with a multidisciplinary gender dysphoria clinic in Melbourne. *Australasian Psychiatry* 23: 158-162

Fenaughty, J; Sutcliffe, K; Fleming, T; Ker, A; Lucassen, M; Greaves, L; and Clark, T; A Youth19 Brief: Transgender and diverse gender students (2021). https://static1.squarespace.com/static/5bdbb75cccf37259122e59aa/t/607cb8431453ca0b05c53bb8/1618786373138/Youth19+Brief_Transgender+and+diverse+gender+student+s+April2021.pdf

Fisher, CM, Waling, A, Kerr, L, et al. (2019) 6th National Survey of Australian Secondary Students and Sexual Health 2018. Bundoora, VIC, Australia: Australian Research Centre in Sex, Health & Society, La Trobe University.

Gonzalez, Maru and McNulty, Jesse (2010) Achieving Competency with Trans Youth: School Counselors as Collaborative Advocates, *Journal of LGBTQ Issues in Counseling*, 4:3-4, 176-186

Ho, Felicity and Mussap, Alexander 2017, Transgender mental health in Australia: satisfaction with practitioners and the standards of care; *Australian psychologist*, vol.52, no.3, pp.209-218

Human Rights Campaign: Tennessee State Legislature Sends Anti-LGBTQ Education Bill to Governor's Desk for Signature, 16 April 2021 <http://search.proquest.com.libraryproxy.griffith.edu.au/newspapers/human-rights-campaign-tennessee-state-legislature/docview/2513223483/se-2?accountid=14543>

James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). The Report of the 2015 U.S. Transgender Survey. Washington, DC: National Center for Transgender Equality

Krishnakumar, P. (2021, Apr 15). This record-breaking year for anti-trans legislation would affect minors the most. *CNN Wire Service*

Latham, Mark, Sky News Australia 11 August 2020
<https://www.youtube.com/watch?v=Ax6wBDC-JZ4>

Latham, Mark, Sky News Australia 21 April 2021
https://www.youtube.com/watch?v=LaSuasqIP_k

NSW Teacher Federation, Safe Schools Coalition, LGBTIQ Newsletter, August 2017
<https://www.nswtf.org.au/pages/safe-schools-coalition-0>

Pellis, Sarah (2021, Apr 15). Why there needs to be more LGBTQ education in schools | column. *University Wire* Retrieved from
<http://search.proquest.com.libraryproxy.griffith.edu.au/wire-feeds/why-there-needs-be-more-lgbtq-education-schools/docview/2512674712/se-2?accountid=14543>

Pereira, Jabu, ILGA World Trans Steering Committee 2019
https://ilga.org/downloads/ILGA_World_Trans_Legal_Mapping_Report_2019_EN.pdf

Rands, K. E. 2009. Considering trans people in education. *Journal of Teacher Education*, 60(4): 419–431

Riggs, D., & Bartholomaeus, C. (2015). The Role of School Counsellors and Psychologists in Supporting Transgender People. *The Australian Educational and Developmental Psychologist*, 32(2), 158-170. doi:10.1017/edp.2015.19

Riggs, D, Coleman, K, Due, C (2014) Healthcare experiences of gender diverse Australians: A mixed-methods, self-report survey. *BMC Public Health* 14: 230

Riley, E, Wong, WKT, Sitharthan, G (2011) Counseling support for the forgotten transgender community. *Journal of Gay and Lesbian Social Services* 23: 395–410

Rotondi, NK, Bauer, GR, Scanlon, K, et al. (2013) Nonprescribed hormone use and self-performed surgeries: 'Do-it-yourself' transitions in transgender communities in Ontario, Canada. *American Journal of Public Health* 103: 1830–1836

Safe Schools, Department Program, Victorian Government Department of Education and Training;
<https://www.education.vic.gov.au/about/programs/Pages/safeschools.aspx?Redirect=2#:~:text=Safe%20Schools%20provides%20information%20and,%2C%20beliefs%2C%20sexuality%20or%20gender>

Sharrow, Elizabeth. Five states ban trans girls from girls' school sports. But segregating sports by sex hurts all girls. *The Washington Post (Online)*, Washington, D.C.: WP Company LLC d/b/a The Washington Post. Apr 16, 2021.

Shepard, Nikita, Anti-trans legislation has never been about protecting children, *The Washington Post*, 10/5/21, <https://www.washingtonpost.com/outlook/2021/05/10/anti-trans-legislation-has-never-been-about-protecting-children/>

Singh, AA, Meng, S, Hansen, A (2014) 'I am my own gender': Resilience strategies of trans youth. *Journal of Counseling & Development* 92: 208–218

Strauss P, Lin A, Winter S, et al. Options and realities for trans and gender diverse young people receiving care in Australia's mental health system: findings from Trans Pathways. *Australian & New Zealand Journal of Psychiatry*. 2021;55(4):391-399

Strauss, P., Cook, A., Winter, S., Watson, V., Wright Toussaint, D., Lin, A. (2017). *Trans Pathways: the mental health experiences and care pathways of trans young people. Summary of results*. Telethon Kids Institute, Perth, Australia.
<https://www.telethonkids.org.au/globalassets/media/documents/brain--behaviour/trans-pathways-summary.pdf>

Strauss, P, Cook, A, Winter, S, et al. (2020a) Associations between negative life experiences and the mental health of trans and gender diverse young people in Australia: Findings from Trans Pathways. *Psychological Medicine* 50: 808–817

Strauss, P, Cook, A, Winter, S, et al. (2020b) Mental health issues and complex experiences of abuse among trans and gender diverse young people: Findings from Trans Pathways. *LGBT Health* 7: 128–136.

Telfer, MM, Tollit, MA, Pace, CC, et al. (2018) Australian standards of care and treatment guidelines for transgender and gender diverse children and adolescents. *Medical Journal of Australia* 209: 1

Winter, Sam, Diamon, Milton, Green, Jamison, Karasic, Dan, Reed, Terry, Whittle, Stephen, Wylie, Kevan; *Trans people: health at the margins of society*, *The Lancet*, Volume 388, Issue 10042, 2016, Pages 390-400

Yu, Y. S., & Mangrum, M. (2021, Apr 15). LGBTQ-related curriculum Bill to lee: Educators object to conservative legislation. *The Tennessean*