

The Hon. Mark Latham, MLC
Chair, Portfolio Committee No. 3
Upper House Committees
Parliament of New South Wales

Via email: portfoliocommittee3@parliament.nsw.gov.au

Dear Mr Latham,

Education Legislation Amendment (Parental Rights) Bills 2020

We refer to the proceedings before Portfolio Committee No. 3 – education and our appearance before the committee on 20 April 2021. We refer further to the request to take on notice, a question regarding any improvements on the NSW Department of Education's Bulletin 55 – Transgender students in schools.

Rainbow Families makes the following comments about Bulletin 55 in relation to the proposed *Education Legislation Amendment (Parental Rights) Bill 2020* ("the bill").

Bulletin 55 provides a good framework for education staff to access when seeking advice on accommodating transgender students. Rainbow families supports the commitment of the Department of Education to provide safe and supportive learning environments that respect and value diversity, and are free from violence, discrimination, harassment, and vilification.

It is apparent anecdotally, that Bulletin 55 is not visible enough to education staff as parents are having to bring it to the attention of schools. The **recommendation** of

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Rainbow Families to improve the efficacy of these existing protections, is for complementary education and support to be provided to school staff. The purpose of this recommendation is to ensure the important information found in Bulletin 55 is led by NSW Education staff rather than used as an aid for parents to either relieve misinformed school staff of misapprehensions, or otherwise to remind staff of their positive obligation to accommodate and support transgender and gender diverse children to access education.

Bulletin 55 collates various pieces of policy and legislation currently in place to protect students from discrimination. The assertion that there is some form of agenda being pushed by a radical ideology invading the NSW Education Department is refuted by the contents of Bulletin 55. Bulletin 55 summarises and provides guidance to education staff to ensure they meet their obligations as set out in the relevant policy and legislation that already exists.

The foundational planks of the proposed bill are to introduce the terms 'gender fluidity' and 'parental primacy' and use these newly created concepts to control what is taught and discussed in schools. The focus and function of the bill countermands policies and legislation already in place to support and protect transgender children as summarised in Bulletin 55. For example:

- Bulletin 55 instructs teachers to treat the topic of gender identity in a manner that is *'respectful, inclusive and positive'*.
- Bulletin 55 states that a 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.'*
- Bulletin 55 notes staff may need *'additional professional development to enable them to successfully support the student.'*

- Bulletin 55 directs for communication strategies to be developed and support implemented for the school, the student, parents/carers, student friendship groups, other students, staff, the broader school community.
- Bulletin 55 provides guidance about questions from other students about a peer disclosing they are transgender and notes the role of staff in providing responses to these questions, responses developed with the school counsellor and or District Guidance Office, with consideration given to *'what action is necessary to reinforce the need for tolerance and respect for diversity.'*

The positive obligations set out in Bulletin 55 sit in complete defiance of the silencing of all school staff proposed by the bill. Notable discrepancies between the proposed bill and current policy, concerning, include section 17C (b) of the proposed bill, restricting the support counsellors can give transgender students.

By way of further example, additionally and more broadly, the proposed bill contradicts a raft of important policies and legislation in place to support transgender students including:

- Student Welfare Policy
- Student Bullying in Schools
- Legal issues bulletin 20 – relating to name and gender records.
- School Uniform Policy
- Sport Australia's Guidelines for the inclusion of transgender and gender diverse people in sport
- Student Health in NSW
- Child Protection Policy
- NSW Anti-Discrimination Act 1977

Our response to the question of what can be done to improve Bulletin 55 is; this document sets out positive obligations to support transgender children in schools and ought to be promoted as an expectation to all school staff. The obligation of providing relevant policy as to why students should not be excluded from a school or education programme, should not fall to parents. The burden of accessibility and safety lies with the NSW government and the information in Bulletin 55 needs to be provided to all staff with support for exact expected action.

Yours sincerely,

Amy McGowan
Director
Rainbow Families