

QUESTIONS ON NOTICE –ADVOCATE FOR CHILDREN AND YOUNG PEOPLE

**PORTFOLIO COMMITTEE NO. 3 – EDUCATION – Inquiry into the Education
Amendment (Parental Rights) Bill 2020**

1. **The CHAIR:** I am just asking out of a submission that if they stop teaching gender fluidity—I am asking for the evidence of where the gender fluidity teaching is at the moment.

Ms ROBINSON: The children and young people in this consultation did not give that evidence. I am happy to take it on notice.

ANSWER

The emphasis of the quote the Chair referred to was that whether or not teachers spoke or taught about gender fluidity, transgender and gender fluid people will still exist in society. The student was not claiming that this was a current part of the curriculum, rather, they hoped that teachers would not be prevented from having important, inclusive conversations.

2. **Mr DAVID SHOEBRIDGE:** Could you, on notice, respond then to the reach of the proposed section 17C, which goes well beyond teachers to all of those kinds of support staff? Could you reflect upon if you have any concerns about the scope of 17C in the bill?

Ms ROBINSON: I can take that on notice, yes.

ANSWER

We refer to p10 of the joint submission in noting that students were concerned about the implications for the mental health of young people seeking information about this issue.

“When presented with the proposal that non-teaching staff, including counsellors, would also not be able to teach students about concepts of gender fluidity, all students who were interviewed expressed concern for the mental health of transgender students. Again, they noted that without access to mental health support through school, young people would be dependent on their parents who may not be willing to assist them to access a mental health practitioner. Without this access, young people expected transgender students to experience poor mental health outcomes.

- ‘If you wanted to see someone externally like a therapist, that’s just a whole other work, because you have to book appointments, you have to pay and then if you have Medicare you have to go through that whole process and overall, you still have to have your parents’ permission.’
- ‘It’s also like stopping their help, so where are they going to go. Their parents don’t believe what they believe and the counsellor can’t talk about it, their teacher can’t talk about it, then they will feel very much on their own and that then isn’t just a problem in your head, but also it affects your mental health and that can lead to other problems.’
- ‘Students should feel safe and open when they’re at school, especially with the counsellors because that’s their job - to help students when they’re not feeling decent mentally.’”

The ACYP would hope that students would be able to access more spaces to safely ask questions and seek support, rather than fewer spaces. By preventing non-teaching staff from discussing gender fluidity, this Bill would not only shut down conversations in the classroom, but conversations in the school more broadly, whether that is with a school counsellor, a nurse, or another trusted member of the school community.

SUPPLEMENTARY QUESTIONS –ADVOCATE FOR CHILDREN AND YOUNG PEOPLE

PORTFOLIO COMMITTEE NO. 3 – EDUCATION – Inquiry into the Education Amendment (Parental Rights) Bill 2020

1. Do you believe that gender fluidity should be taught in NSW schools? If so, why?
2. What is the age inappropriate level for the teaching of gender fluidity, that is, telling children that “gender is a choice”, “you may have been born into the wrong body” and “your gender has been socially constructed”?
ANSWER (to Q1-Q2) The joint submission to the Inquiry recommended that content taught in schools should consider the age and developing maturity of the child. We expect this would involve a combination of the expertise of the teacher and the ability of the teacher to listen and respond to the needs of the child. The joint submission to the Inquiry (Recommendation 14) states ‘They [the students consulted around the Bill] are seeking more information, rather than less, and feel that an omission of the experience of LGBTQIA+ students from the curriculum would be unbalanced.’
3. What are the “social constructs” referred to in Recommendation 4 of your submission?
4. What do you understand to be the theory of social construction?
5. Do you regard social construction as a fundamentally anti-educational doctrine - telling young people that everything they know about their identity, family, school and life around them has been ‘socially constructed’ in their minds and may not be true? Do you understand how the radical post-modernist theory of social construction undermines student trust and belief in the school learning process?
6. What are the ‘worldviews’ you want children to be taught in your Recommendation 4?
7. Why does your Recommendation 4 make no mention of the teaching of facts, deep knowledge and the development of basic skills like literacy and numeracy in our schools?
ANSWER (to Q3-7) The recommendation does not refer to specific social constructs and worldviews, rather, it acknowledges that social constructs and different ways of viewing the world exist and that students would like to learn about them. The first aspect of the recommendation is that the Bill’s proposed amendments preventing instruction about gender fluidity are not adopted. It then goes on to more broadly recommend: “that students are taught about different worldviews, social constructs, health and wellbeing in accordance with their age and developing maturity.”

<p>8. What is your evidence base for recommending the teaching of “health and wellbeing” in our schools? What is the evidence to say this can be done successfully in the classroom, as opposed to the content and skills we know schools can successfully teach?</p>
<p>9. What is the evidence base you rely on to say that schools can successfully achieve behavioural change in their students with regards to attitudes such as tolerance and ‘inclusion’?</p>
<p>ANSWER (to Q8-Q9) Health and Wellbeing are currently core parts of the NSW PDHPE curriculum and the positive behaviour of students is a key concern of the Department of Education as laid out in its Student Behaviour Strategy. Regarding an evidence base, we would defer to the Department of Education for their expertise on these matters and the aims of the Behaviour Strategy.</p>
<p>10. Given that in any one year children only spend 13 percent of their time at school, do you regard schools as specialist institutions imparting knowledge and learning skills for students, without the time, resources and expertise needed to be heavily involved in questions of student moral and ethical values, politics, personal identity, health care and wellbeing?</p>
<p>ANSWER This question should be directed to the Department of Education.</p>
<p>11. What is the statutory authority by which you have involved yourself in matters of school policy and proposed legislation? Where in your statutes does it say this is your role?</p>
<p>ANSWER The functions of the Advocate for Children and Young People are outlined in the <i>Advocate for Children and Young People Act 2014</i>.</p>
<p>12. Are you aware that Sydney child care centres (such as Warriewood West) are using material you sent them to legitimise the teaching of gender fluidity books to 3 and 4 years olds, a form of child abuse? What action have you taken to ensure very young children are not taught gender fluidity and other age inappropriate content?</p>
<p>ANSWER The Advocate understands this question relates to the Child Safe Standards. As the Office of the Children’s Guardian is responsible for the Child Safe Standards it is appropriate that the Children’s Guardian answers this question.</p>
<p>13. How did we ever arrive at a situation where the Children’s Advocate and Children’s Guardian, ostensibly established for child protection, have become part of a political movement encouraging gender fluidity in very young children, that is, facilitating a form of child abuse? Can you see the wrongness of what you have done?</p>
<p>ANSWER The Advocate for Children and Young People rejects the premise of this question.</p>

<p>14. By what statutory head of power have you involved yourself in monitoring and acting on the implementation of the Commonwealth Royal Commission into Child Sexual Abuse?</p>
<p>ANSWER Refer to the answer to question 11.</p>
<p>15. Haven't your many actions outside of your statutory mandate and legal authority drawn resources and focus away from your core NSW Government child protection functions, inappropriately rendering your agencies as political activism bodies?</p>
<p>The Principles governing the work of the Advocate include that "the safety, welfare and well-being of children and young people are the paramount considerations" but also that their views are given serious consideration and taken into account (Section 14(a) and(b)).</p> <p>One of the Advocate's functions is "to make recommendations to government and non-government agencies on legislation, reports, policies, practices, procedures and services affecting children and young people" (Advocate for Children and Young People Act 2014 Section 15(1)(d))</p>
<p>16. Do you acknowledge that the encouragement of fads, experiments and political content in schools in recent decades has led to the Lindfield Learning Village situation, that is, a woke agenda supposedly fostering respect and tolerance which, in fact, is creating hatreds, disrespect and barbarism in the minds of young NSW school students?</p>
<p>17. Do you accept that by their nature - which is contentious, divisive and confrontational - political and ideological issues and teachings can only be counter-productive in the classroom, causing confusion, hatreds and disrespect in the minds of young people?</p>
<p>18. If political and ideological issues are hard for adults to handle (and increasingly so in today's heavily fractured political environment) why do you believe children should be exposed to them in schools?</p>
<p>ANSWER (to Q16-18) We note that the policy in NSW schools is that teaching should be "non-sectarian and secular" (Education Act 1990 Section 30) and that "Schools are neutral places for rational discourse and objective study." (Controversial issues in schools policy Section 1(1.3.1)) Our expectation is that teachers would be presenting content related to political issues in a neutral, objective manner, rather than to persuade students of a particular viewpoint.</p> <p>If there are teachers who have not adhered to this policy, this is a matter for the Department of Education and NESA.</p>
<p>19. Do you accept, in large part due to the folly over the past 20 years in allowing political issues, ideological dogma, gender fluidity, divisive identity politics and post-modernist teachings into NSW classrooms, that our young people have lost what was their greatest asset of the childhood years: their innocence and sense of fun? What responsibility, therefore, do activist political agencies like your own accept for the rise of mental illness among young people in NSW, having polluted their minds with adult political and ideological content?</p>

ANSWER

Refer to the answer to question 13.

20. Do you support the publicly stated view of the NSW Parliamentary Secretary for Education, Kevin Connolly, that, "The (Parental Rights) Bill is a positive step forward because it provides the opportunity for parents to provide genuine selfless care to young people rather than leave them at the mercy of activists whose 'care' is far more for their ideological cause than it is for the young person facing difficult challenges. In doing so, it upholds universally recognised basic human rights, and responsibilities of parents towards their children." (5 March 2021 letter to PIAC). If not, why do you oppose the Parliamentary Secretary?

ANSWER

The view of the Parliamentary Secretary for Education is a matter for them. The Advocate for Children and Young People's view on the Education Amendment (Parental Rights) Bill 2020 is as per the joint submission, evidence provided during the hearing and the answers provided to these supplementary questions.

21. Do you support the teaching of the Safe Schools program in NSW schools?

ANSWER

The Advocate for Children and Young People understands that the Safe Schools program is not taught in NSW public schools.

22. At what age do you believe, generally, young people have clear awareness of their sexuality?

23. At what age do you believe, generally, young people have clear awareness of the issues surrounding gender fluidity?

ANSWER (to Q22-Q23)

These questions are best directed to an educational and developmental psychologist.

24. Do you agree with experts at our Committee hearings maintaining that the promotion of gender fluidity in children is a form of child abuse? If not, why not?

ANSWER

The view of those who provided evidence during the hearings is a matter for them. The Advocate for Children and Young People's view on the Education Amendment (Parental Rights) Bill 2020 is as per the joint submission, evidence provided during the hearing and the answers provided to these supplementary questions.

Transgender people are valued members of our society, and some young people begin to identify as transgender at a young age. As outlined in the submission and through comments at the hearing, under the United Nations Convention on the Rights of the Child, children have a right to access information about themselves and the world around them and have a right to express themselves freely (Articles 8, 12, 13, 14).

25. Do you accept that the first rule of governance for agencies like yours should be "Do No Harm"? Why then in the highly contested child psychology field of gender fluidity have you risked child welfare, risked legitimising child abuse (among children as young as 3), by actively promoting child gender fluidity in NSW?

ANSWER

The Advocate for Children and Young People rejects the premise of this question.

According to section 14 of the Advocate for Children and Young People Act:

The following principles are to govern the work of the Advocate—

- a) the safety, welfare and well-being of children and young people are the paramount considerations,
- b) the views of children and young people are to be given serious consideration and taken into account,
- c) a co-operative relationship between children and young people and their families and communities is important for the safety, welfare and well-being of children and young people.

Our submission to this inquiry was in line with these principles.

26. What recommendations of the Commonwealth Royal Commission into Child Sexual Abuse deal with issues of sexual diversity and gender fluidity? What are the details?

ANSWER

The recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse are available at

<https://www.childabuseroyalcommission.gov.au/recommendations>.

27. In light of your answer in (26) above, how does the final report of the Royal Commission justify the actions of the NSW Office of the Children’s Guardian (OCG) and the Children’s Advocate in promoting LGBTIQ-related literature, training, welcome and acceptance statements and other material as a form of child protection in NSW?

28. What is the evidence base the Children’s Advocate and OCG relies on for believing that the promotion of LGBTIQ material is a frontline tool for strengthening child protection in NSW?

29. What evidence is available to the Children’s Advocate and OCG that the promotion of age inappropriate a) gender fluidity and b) child sexualisation material weakens the protection and wellbeing of children? What are the details?

ANSWER (to Q27-Q29)

These questions are best directed to the Children’s Guardian.

30. Noting the contents of your submission, the evidence you gave to the Committee and now the contents of your letter of 23 April 2021, stating that, “We are confident that our submission reflected the views of children and young people in NSW”, isn’t it more likely you have set out to mislead and deceive the committee with focus group ‘research’ that no one familiar with opinion research methodology could regard as anything but farcical and embarrassing to you and the OCG?

The submission was clear about the limitations of the consultation, which was qualitative rather than quantitative in nature.

The participation arm of the ACYP are experienced in consultation with children and young people and are familiar with research methodologies.

31. Why did your submission to the Committee purport to speak for the views of children in NSW, based on a “sample size and composition in line with research industry standards (on how) to understand how young people feel about this Bill”, when the “consultations” were, in fact, based on:

- a. Focus groups of 35 school students, out of 2.7 million young people in NSW, that is, 0.001% of the cohort, plus viewpoints from 9 of the Youth Advisory Council (including people up to the age of 24 years - that is, a number of adults)?
- b. Focus groups not undertaken by a professional, independent moderator but by Children’s Advocate and Guardian staff?
- c. One-half of the focus group numbers were from a high school near Strawberry Hills, where your office is located, and the other half from an unspecified regional school?
- d. A number of focus group participants in the regional area were drawn from “young people who attend a support group for LGBTQIA+ students”?
- e. Focus group participants who volunteered for the interviews, that is, they were self-selected, not only by themselves but through permission granted by their parents?

a)

The limitations of the consultation were acknowledged in both the submission and in the hearing for the Inquiry.

Regarding the above quote, the paragraph in the submission it is drawn from emphasises that the consultation was qualitative rather than quantitative in nature. The submission notes that “As this was a qualitative rather than quantitative consultation, the views of participants should be taken to reflect the various opinions held by young people in NSW but are not a statistical representation of how widespread those views are... Comparisons of how many students held a particular view should be considered indicative only.”

The Youth Advisory Council regularly provide their perspective on issues debated by Government and consists of young people aged 12-24. This is the definition of “young person” outlined in The Advocate for Children and Young People Act (2014) in Section 3(1).

The Advocate also noted that there is a plan to do further consultation on LGBTQIA+ issues later in the year. In addition, the Advocate wrote to the Committee on Friday 23rd April to offer further consultation to the Committee if they would like to hear from more children and young people. The Advocate noted that the regular process for consultation takes several months and that this consultation had a very short turn around given the timing of the invitation to make a submission to the Inquiry and the beginning of the school year. ACYP would welcome the opportunity to include more voices of children and young people in the discussion.

b)

The focus groups were conducted by the Participation team within the Office of the Advocate for Children and Young People. The role of this section of the Office is to regularly conduct consultation with children and young people across NSW in accordance with Section 15(1)(b) and (e) of the Advocate for Children and Young People Act (2014). Between them, staff members have decades of facilitation experience as well as varied backgrounds in psychology, social work and social research to ensure that facilitation is conducted in a professional, trauma informed way. The ACYP team regularly consults with

vulnerable children and young people and has produced a number of reports based on these consultations including “What children and young people experiencing homelessness have to say” (2017), “Report on Consultations with Socially Excluded Children and Young People” (2018), “What children and young people in juvenile justice centres have to say” (2019), and current consultations with young people in out of home care.

c)

As outlined in the submission, two groups were from a regional area and two were from a metropolitan area. The YAC were also consulted but responded on an individual basis rather than in a group discussion.

d)

The sample design was aimed at ensuring ACYP could gain an understanding of how the Bill would impact LGBTQIA+ students, particularly those who are trans or gender diverse.

e)

As an ethical principle of social research and to respect the rights of parents, ACYP seeks parental consent for all participants in consultations conducted through schools.

Aside from students in the LGBTQIA+ support group, those recruited for the consultation were drawn from class groups. All students of each class were invited to participate, so while they were technically self-selected in that they chose to participate, all members of that class had an equal opportunity to join the discussion and were made aware of the discussion in the same way.

32. Do you now concede that the opinion ‘research’ you undertook was in no way a representative sample of young people in NSW, nor was it independently and professionally conducted?

The submission noted that the consultation should not be interpreted as a representative sample.

33. Which was the high school near Strawberry Hills involved in the focus groups?

34. What was the regional high school?

ANSWER (to Q33 to 34)

ACYP have not named the schools consulted in the submission to protect the anonymity of the students who participated, given the sensitivity of the subject and the deeply personal nature of some of the quotes included in the submission.

The metropolitan school had not previously been involved in consultation with the ACYP. The regional school involved is in the Western NSW region.

35. Can you point to any “research industry standards” that in any way support the methodology you used in this consultation exercise?

ANSWER

The consultation used a qualitative methodology due to the sensitivity and complexity of the subject. There is no universal standard for the number of focus groups that should be run for a project as the methodology for any given project should be designed with the various factors and constraints of the target audience in mind.

For example, in 'Qualitative Research Methods' Liamputtong (2009) notes "a crucial point in qualitative research is to select the research participants meaningfully and strategically, instead of attempting to make statistical comparisons". The central premise is not to understand how many people feel a particular way, but to capture the variety of views held among the target audience.

This project was designed to capture the views of regional participants, metropolitan participants, and those who identify with the LGBTQIA+ community and those who do not.

To achieve this aim, four focus groups were conducted with high school students in NSW. This included two regional groups and two metropolitan groups.

Feedback was also provided from YAC members who are drawn from across the state. They were given a briefing about the Bill and a set of questions to respond to individually. This was not run as a focus group as the feedback was sought out of session of the regular YAC meetings.

The sample included young people from a range of demographics. It included a mix of genders, ages, those with CALD background, regional and metropolitan students, and students who identified they were part of the LGBTQIA+ community and those who did not. Liampattong (2009) refers to this approach as 'maximum variation sampling'.

36. Why did you fail to intervene in the case of the 'Only About Children' Warriewood West child care centre earlier this year to tell them there is nothing in the Child Safe Standards that requires the teaching of gender fluidity books to 3 and 4 year old children?

37. Given your neglect in (36) above, how do you respond to this evidence of you acting as an enabler of child abuse in the unnecessary and totally inappropriate sexualisation of young children at Warriewood West?

ANSWER (to Q36-Q37)

This question is best directed to the Office of the Children's Guardian.