

**Submission
No 241**

INQUIRY INTO EDUCATION AMENDMENT (ETHICS CLASSES REPEAL) BILL 2011

Organisation: NSW Council of Churches

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NSW Council of Churches

Submission to the NSW Legislative Council Inquiry Conducted by the General Purpose Standing Committee No. 2 to Report on the Education Amendment (Ethics Classes Repeal) Bill 2011

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Executive summary

The NSW Council of Churches appreciates the opportunity to comment on issues relating to the introduction of Special Education in Ethics (SEE) classes in NSW state schools and the bill to repeal the Act. We note that the committee's terms of reference are to inquire into and report on the Education Amendment (Ethics Classes Repeal) Bill 2011, and in particular:

- (a) the stated objectives, curriculum, implementation, effectiveness and other related matters pertaining to the current operation of 'special education in ethics' being conducted in State schools, and
- (b) whether the *Education Amendment (Ethics) Act 2010* should be repealed.

We note that the Committee is to report to the Legislative Council by 4 June 2012.¹

This submission is made on behalf of the NSW Council of Churches, and addresses the principal issues from the perspective of the Council. The Council's main concerns are as follows:

1. Political tactics rather than educational considerations led to the passing of the Act.
2. Ethics classes directly compete with Special Religious Education classes.
3. Parents should have access to SEE curriculum materials.
4. Ethics education is already offered in other contexts in NSW state schools.
5. The SEE curriculum privileges consequentialist ethical theories.
6. The SEE curriculum intentionally excludes religious wisdom.
7. Ethics is "caught" in a moral community, not just "taught" in a classroom.
8. There was lack of due process in appointing the SEE provider.
9. Schools must comply with Departmental implementation guidelines for SEE.
10. Problems regarding opting out of SRE classes, SEE class sizes, promotion of SEE classes, and access to SEE classes by all students need to be addressed.
11. Problems regarding the provision of suitably qualified and trained volunteer teachers need to be addressed, and the Department must ensure that departmental staff do not teach SEE classes.
12. Many students continue to require supervised "private study," while some students have returned to SRE classes, indicating deficiencies in SEE classes.
13. The new arrangements set a precedent for the introduction of other kinds of classes.

The NSW Council of Churches recommends that an independent review be conducted of all aspects of the provision and delivery of SEE classes in NSW state schools with a report and recommendations to be presented to Parliament before the date of the next state election, with particular attention given to improved transparency, consistency, equity and accountability in administration of SEE classes.

The NSW Council of Churches strongly supports the implementation of significant reforms to the Act and related instruments such as will deliver the changes and benefits recommended in this submission.

The NSW Council of Churches affirms that God has revealed himself to humankind in Creation, in the Bible, and through Jesus Christ, and that this divine revelation provides the best foundation for ethical deliberation and moral development. The Council cannot support any school ethics program that deliberately prohibits a child from learning certain spiritual and ethical truths when forming his or her moral compass.

¹ Information about the Inquiry is available at

<http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/3312B8C2F2E89AD2CA2579480000E930>

1. Objectives

(a) *Political tactics not educational considerations led to the Act*

The NSW *Education Act 1990* was amended on 1 December 2010, giving students who did not attend Special Religious Education (SRE) classes in NSW public schools the legal right to attend philosophical ethics classes as an option to supervised “private study.” It should never be forgotten that, as Rev. the Hon. Fred Nile stated in a speech to the NSW Legislative Council on 5 August 2011, “The Greens and the Australian Labor Party rammed the bill through before Christmas [2010] because they knew they were going to be thrown out of government; ... Their strategy was to tie the hands of a new democratically elected government.”² Unsavory political tactics and a desire to shore up support in key inner city marginal seats prior to the March 2011 state election led to the passing of the Act, rather than careful consideration of the best interests of all NSW school students and alternative ways in which ethics could be taught in NSW schools.

(b) *Ethics classes directly compete with Special Religious Education classes.*

The website of Primary Ethics, the company set up by the St James Ethics Centre to deliver the SEE program, states as its objective the desire “to develop and deliver philosophical ethics education for children in urban, regional and rural schools ... free of charge via a network of specially trained and vetted volunteers.”³

It is clear that there was a deliberate move to design and roll out an ethics program in direct competition with SRE classes, arguably with a view to replacing SRE classes in the future. Indeed the ten-week trial contravened departmental policy which had protected SRE from alternative programs and activities that might have drawn students away from SRE. As Sydney Anglican Archbishop Peter Jensen observed in the April 2010 issue of *Southern Cross*,

what [the Keneally Labor Government] has done in approving [trial ethics classes] is renege on an assurance given by governments to the churches since 1880, and reaffirmed in 1990 and 2008, that it would not permit ethics or any other program to be delivered at the same time as SRE. How can we be sure that it does not gut SRE from the curriculum?”⁴

This question remains directly relevant to the current inquiry in 2012.

The Social Issues Executive of the Anglican Diocese of Sydney recently released a publication which identified several substantive arguments against the introduction of SEE classes. One of these arguments relates to the historical injustice of delivering a secular program which, by design or otherwise, competes with SRE classes in terms of scheduling and especially content. The authors noted that

Scripture classes have been operating in Australia for over 120 years as an outcome of a historical agreement for Government to provide schooling once provided by churches. As such, SRE reflects an important element of our heritage. They provide children with an opportunity to learn about the Bible, the historical person of Jesus and the ethic that has underpinned modern Australian society. No serious historian doubts the formative influence that Jesus and Christianity have had on the legal, cultural and political development of Western civilisation. Attending Christian SRE classes particularly helps provide the children of non-religious parents with an understanding of a historically

² [http://www.parliament.nsw.gov.au/prod/parlament/nswbills.nsf/0/3bd041a5f7454246ca257886002b8d1e/\\$FILE/Ethics%20Repeal%20-%20LC%202nd%20Reading.pdf](http://www.parliament.nsw.gov.au/prod/parlament/nswbills.nsf/0/3bd041a5f7454246ca257886002b8d1e/$FILE/Ethics%20Repeal%20-%20LC%202nd%20Reading.pdf)

³ <http://www.primaryethics.com.au/>

⁴ <http://www.gordonmoyes.com/2010/04/23/ten-reasons-the-ethics-trial-is-not-a-good-idea>

important aspect of Australian culture. Australians live by many pieces of Biblical wisdom, such as ‘turn the other cheek’ and ‘look after your neighbour’. SRE classes help children to realise that some ‘life creeds’ actually come from Jesus.⁵

In pursuing its stated objectives, the St James Ethics Centre directly undermines this valuable cultural and educational service which has been provided by religious groups in the community for more than 130 years. For those who are committed to the removal of SRE classes from NSW schools, such as certain individuals and groups associated with the Federation of Parents and Citizens’ Associations of NSW, the introduction of SEE classes presents an unprecedented opportunity to achieve their goal. This is the “elephant in the room” that politicians and others are unwilling to confront.

2. Curriculum

(a) Parents should have access to the SEE curriculum

The NSW Council of Churches notes that a summary curriculum framework appears on the Primary Ethics website.⁶ It is regrettable that the St James Ethics Centre has determined that the full SEE curriculum has been deemed a commercially confidential document and will not be made public. The Council made a formal request to Primary Ethics staff for a copy of the curriculum in order to address relevant matters in this submission, but received reply. It is to be hoped that the NSW Department of Education and Communities will remedy this matter. Parents and guardians of students should have a right to examine the curriculum materials before they allow their children to opt-in to SEE classes, and should not have to rely on media reports or the minimal descriptions of course content published on the Primary Ethics website in making informed choices about the educational options available to their children.

(b) Ethics education is already offered in other contexts in NSW state schools

There also appears to be a false assumption by the SEE providers and their supporters that NSW school students are not being exposed to ethics education other than through SRE classes. As NSW Council of Churches Public Affairs Director Rod Benson observed in an address to a meeting at the NSW Parliament on 28 February 2011,

It is wrong to undermine SRE by teaching ethics as an alternative under the guise of providing “complementary” curriculum content. The ideal alternative for those students who opt out of an SRE class, where there is critical exposure to a particular faith, is a comparative religions class, not an ethics class with the spiritual oxygen sucked out of it.

At its best ours is a pluralist society and an inclusive community, and of all our institutions, our schools should model those ideals. Let’s not build walls where there should be none. The current debate should be about how moral philosophy could be better integrated in the whole school curriculum, not tacked on as an optional extra for students who opt out of religious education classes.⁷

The formal integration of a comprehensive ethics education component in the whole school curriculum in NSW may be appropriate, but not in a form that excludes the contributions of religious ethics and not at the expense of the provision of Special Religious Education. Moreover, the Council

⁵ Andrew Cameron & Rebecca Belzer, “Ethics and SRE (part 2),” available at http://www.sie.org.au/briefings/ethics_classes_and_sre_part_2/

⁶ <http://www.primaryethics.com.au/k6framework.html>

⁷ <http://rodbenson.com/2011/02/28/speech-on-special-religious-education/>

commends comments made by Mr Jim Wallace, managing director of the Australian Christian Lobby, in an opinion piece published in *The Sydney Morning Herald* on 9 April 2012:

No serious historian – regardless of whether or not they are religious — doubts the formative influence of Christianity, its ethics and values on the legal, cultural and political development of Western civilisation. Indeed it is the Judeo-Christian ethic that sets the way we live apart from the way other cultures live...

The trial ethics curriculum is produced by the St James Ethics Centre and the aim is to “provide a secular complement for the discussion of the ethical dimension of students’ lives”. This by definition excludes the discussion of Christian values, which underpin so much of Australia's ethical framework. It will be interesting to see how values such as loving one's neighbour, self-sacrifice, helping the poor etcetera are dealt with when the Bible stories that have shaped our understanding of these concepts for hundreds of years are excluded from the discussion.

It seems the ethics of the Bible and of the person of Jesus are now deemed so inconsequential that the Government must fund its own ethics curriculum and use its resources to draw students away from Scripture classes, which have been taught by dedicated volunteers for decades.

If it is so important for the Government to provide secular ethics classes and promote them to all students – not just the small minority of conscientious objectors – then all students should have the opportunity to attend but not at the expense of the existing Scripture classes.

While secularism sounds good, no one should think that its values come from a vacuum. The idea of loving one's neighbour as oneself – or do unto others as you would have them do unto you – is religious. More accurately, it is Christian.

Secularism is certainly not neutral and those who wish to expunge Christian values from our schools and public institutions should more fully explain the worldview from which their alternative values derive. In the mean time, if we are going to continue to recognise and celebrate our Judeo-Christian heritage, the state government should not dilute the influence of Scripture classes because they are the one opportunity in life the majority of young people have to understand what it is all about.⁸

(c) The SEE curriculum privileges consequentialist ethical theories

The Primary Ethics website lists examples of ethical issues to be discussed in SEE classes, including

being left out, sharing and bullying ... homelessness and child labour ... understanding consequences, having empathy, appreciating difference, having common capacities and giving equal consideration ... how important is it to look good? Are rules always fair? Pride, teasing and animal rights ... the difference between relevance and truth and the idea of weighing reasons against each other.⁹

These are commendable topics for conversation and ethical enquiry, but it appears that Primary Ethics privileges a strong consequentialist ethical theory (emphasising outcomes or utility as the primary basis for ethical decision making and moral formation). Consequentialism is one of a range of basic approaches to ethics, and needs to be balanced by other approaches such as deontology (ethics based

⁸ <http://www.smh.com.au/opinion/politics/you-cant-teach-ethics-without-referring-to-christianity-20100409-xxai.html>

⁹ <http://www.primaryethics.com.au/building.html>

on obligation or intention rather than outcomes) and communitarianism (ethics based on right relationships, or principles that encourage the development of a good and healthy society). Ethics is about right actions and intentions, and right relationships, as well as right outcomes. None of these three broad approaches approach to ethics necessarily invalidates or subordinates either of the others, but the emphasis of each approach adds important dimensions to ethical thought and decision making.

In addition, most Christians would agree that moral authority is derived from various sources, primarily from sacred Scripture but also from considerations arising from the application of tradition, reason, experience and emotion. An ethics curriculum designed for children that relies on reason alone, or reason and experience alone, is a curriculum that severely limits the moral formation and citizenship education of students.

(d) The SEE curriculum intentionally excludes religious wisdom

The website states that “Primary Ethics will build a substantial body of innovative work created by leading Australian academics specialising in philosophy and education.”¹⁰ The NSW Council of Churches views this process as untenable because it deliberately excludes ethical theory and practice based on the wisdom of religious traditions, specifically the Christian faith which is primarily guided by biblical revelation. Subscription to ethical theories which succeed in justifying moral standards necessarily affirm or imply moral ideals. Students should be encouraged to explore the nature of these moral ideals, why they exist, and why they ought to be embraced in thought and action.

The Council believes that it is academically disingenuous and practically foolish to seek to understand and teach ethics in neutral terms. Every ethical theorist and teacher approaches their subject from a particular perspective, and this has profound implications for the moral development of students. It is important that those who develop the curriculum and those who teach the material (in both SEE and SRE classes) are transparent about the philosophical and ideological framework(s) that underlie the work they do and the outcomes they desire. The NSW Council of Churches concurs with the view of the Social Issues Executive of the Anglican Diocese of Sydney on this point:

Many people (particularly Christians and other faith groups) are concerned about the ideology underpinning the course. Every ethical system brings with it suppositions about how the world works and what criteria people use to judge their (and others) actions within it. Framers of the SEE course say that the emphasis is not on providing a particular answer to any question, but rather on helping students to think in an ethical way; but opponents think that asking children to think about these issues in a moral vacuum can be difficult for them.¹¹

(e) Ethics is “caught” in a moral community, not just “taught” in a classroom

The independent report into trial ethics classes released on 20 October 2010 confirmed serious problems relating to principles and processes previously identified by churches, SRE providers and others. The NSW Council of Churches responded to the release of the report with a detailed media release. On curriculum issues, the Council reiterates the comment made in its media release:

Ethics involves more than making good decisions. It includes actively developing virtues, and eschewing vices, in the context of a community of persons. This is best achieved in settings beyond the classroom, and to narrative rather than didactic approaches to teaching

¹⁰ <http://www.primaryethics.com.au/aboutus.html>

¹¹ Cameron & Belzer, op. cit.

– which is why religious communities and sacred scriptures offer such important resources for ethics education.¹²

3. Implementation

(a) *Lack of due process in appointing the SEE provider.*

It is unclear why the St James Ethics Centre was selected by the NSW Department of Education and Communities to create the SEE curriculum and deliver the program in schools. As Max Wallace, Director of the Australian and New Zealand National Secular Association, pointed out regarding the 2010 trial ethics classes, it is curious that an ethics centre:

- with a Christian name and Anglican origins;
- claims it is secular;
- but disavows links with any secular organisation;
- while being funded by presumably very wealthy Christians;
- is running a trial of secular ethics in state schools;
- as an alternative to religious instruction.¹³

There should have been a transparent tender process, and this should not have excluded religious or multi-faith providers.

(b) *Schools must comply with Departmental implementation guidelines*

The NSW Council of Churches strongly urges the Department of Education and Communities to compel schools to comply with the implementation guidelines for SEE classes as set forth on the Department's website:

Following a decision of the NSW Government, from Term 1, 2011, schools may include a course in special education in ethics as an option for students whose parents have requested exemption from special religious education (SRE). Current implementation is for primary schools only.¹⁴

Students who are attending non-SRE options, may attend ethics classes if they are in Year 5 or 6 and there is a trained ethics coordinator at the school, there are trained volunteers and sufficient students to establish a class.¹⁵

Parents whose children attended special religious education in 2010 but who wish them to participate in special education in ethics classes must first, formally seek exemption from special religious education. This must be done in writing. Places should only be offered in special education in ethics classes (if available) after the written application has been confirmed.¹⁶

The NSW Council of Churches recognises that initially there may be teething problems while SEE classes begin to be introduced and schools learn how to accommodate them. However, several irregularities have been reported which suggest that Principals, teachers and/or parents may be over-enthusiastic in seeking to generate support for ethics classes.

¹² The text of the media release is available at <http://rodbenson.com/2010/10/20/whats-wrong-with-the-ethics-class-trial/>

¹³ <http://www.onlineopinion.com.au/view.asp?article=10553&page=0>

¹⁴ <http://www.curriculumsupport.education.nsw.gov.au/policies/ethics/index.htm>

¹⁵ See PowerPoint slides sent to NSW State School Principals in October 2011.

¹⁶ <http://www.curriculumsupport.education.nsw.gov.au/policies/ethics/index.htm>

(c) Problems with opting out of SRE classes

The paper published by the Social Issues Executive of the Anglican Diocese of Sydney (referred to above) notes that “the practical result of s.33A of the *Education Act 1990* is that for children to swap from SRE to SEE, parents must *first formally seek exemption from SRE in writing*. A place in any available ethics classes will *only* be offered once the written application has been confirmed.” This procedure may not be clear to some parents and school staff, and should be restated so that everyone is aware and able to take appropriate action. The paper goes on:

There are reports of parents being offered SEE, or of children being accepted into SEE classes, without the school having received any written request to first exempt the children from SRE. (However, while parents should only be offered a place in ethics classes after they have indicated that they wish to withdraw their child from SRE, the implementation guidelines for ethics classes expect that all parents will be notified that ethics classes are available at the school).¹⁷

(d) SEE class sizes

The Anglican paper further notes that SEE classes require a minimum of eight children to be deemed viable. In some schools, this requirement of a minimum number of children is reportedly leading to some children who attended SRE being directed by school staff into SEE classes without parents first opting out of SRE classes in the required manner. This artificial boosting of numbers in ethics classes must cease and accurate data should be collected for all NSW state schools.

(e) Promotion of SEE classes

There are reports that SEE classes have been vigorously advertised and promoted in some school communities. Examples include emails or newsletters being sent out to all parents giving details about the new ethics classes, and advertising for SEE volunteer teachers in the weekly newsletters. However, the Anglican paper also notes that Principals are required to assist SEE coordinators and teachers as necessary, and to inform all parents of children in the relevant year groups when ethics classes are available.¹⁸

(f) Access to SEE classes by all students

In addition, the same paper notes the concern that, if SEE classes are deemed to be beneficial to all children (as the St James Ethics Centre and the NSW Government believe they are), then all children should have the opportunity to attend them. Under the current arrangements, children whose parents do not opt-out their children from attending SRE classes do not have the opportunity to access SEE classes. The obvious solution to this inequity would be to deliver the ethics curriculum as part of the general educational program of NSW state schools, rather than requiring it to be taught at a time and in a place where many students do not have access.

(g) Provision of suitably qualified and trained volunteer teachers

As noted in the NSW Council of Churches response to the report on the trial classes in 2010, questions arose regarding the competency of volunteer teachers, in particular the ability of volunteer teachers to deliver all elements of lesson plans, including the evaluative component toward the end of a lesson, within the time constraints imposed by the school. It appears that, whereas SRE teachers were

¹⁷ <http://rodbenson.com/2010/10/20/whats-wrong-with-the-ethics-class-trial/>

¹⁸ Cameron & Belzer, op. cit.

required to conduct lessons within 30 minutes, ethics trial teachers were allowed up to 60 minutes and still frequently failed to teach the course content.

In addition, the trial ethics classes report noted that “many” of the volunteer teachers encouraged an uncritical embrace of moral relativism or cultural pluralism among students (p. 13). The report’s authors observed that “these misconceptions impose limitations on the course,” and recommended better training of future teachers. However, the NSW Council of Churches would argue that, if moral relativism is a “misconception,” it follows that there are moral absolutes. One may therefore ask where these absolutes come from, who decides which are appropriate, and on what basis. It follows logically that religious tradition and spiritual values have a natural place in moral philosophy and ethical deliberation alongside reason, experience and emotion.

(h) Departmental staff teaching SEE classes

The NSW Council of Churches also expresses a concern that, if it becomes clear that the supply of suitably qualified and trained volunteer teachers is insufficient to meet student demand, pressure would be applied to allow teachers currently employed by the Department of Education and Communities to teach SEE classes. Such pressure must be resisted, and relevant legislative and departmental policy provisions must be enforced.

(i) Many students continue to require supervised “private study”

The introduction of SEE classes has not eliminated the original problem that it set out to address. Children may opt out of both SRE classes and SEE classes, and must therefore continue to be appropriately supervised as they engage in meaningful work. Further, the SEE classes are presently offered only to students in Grades 5 and 6, and only in a small number of NSW state schools. In addition, there are many schools throughout NSW that do not convene SEE classes due to lack of demand or lack of volunteer ethics teachers, and this is unlikely to change. If one of the objectives of the program created by the St James Ethics Centre was to provide a meaningful structured learning experience for all students who opted out of SRE classes, the program has failed and needs to be overhauled or abandoned.

(j) Students are returning to SRE classes

There are reports from several NSW schools that students who had previously attended SEE classes were no longer attending, and some had returned to SRE classes. There is also evidence that the number of students attending SRE classes in NSW schools in 2011 has increased. The SRE providers or the Inter-Church Commission on Religious Education in Schools (NSW) Inc. may be able to provide more information on these trends. This evidence indicates that the curriculum, teaching philosophy and/or delivery of content of SEE classes, in at least some schools, may not be of an acceptable standard. If students who have experienced SEE classes are drifting back to SRE classes or supervised “private study,” one of the key objectives of the SEE classes has failed.

(k) Other possible kinds of classes

Given the fact that SEE classes have now been introduced to NSW state schools, a case could be made that these classes set a precedent for other “non-religious” groups to convene classes or other teaching and learning activities during time set aside for SRE classes. Legislation should prevent this.

4. Effectiveness

Apart from its response to the review of trial Ethics Classes in 2010, the NSW Council of Churches is not in a position to judge in detail the effectiveness of SEE classes as they have been taught in the current mode. For this reason the Council recommends an independent review of all aspects of the provision and delivery of SEE classes in NSW state schools with a report and recommendations to be presented to Parliament before the date of the next state election. Particular attention in such a review should be given to improved transparency, consistency, equity and accountability in administration of SEE classes. See also the comments made regarding the continued requirement for supervised "private study" referred to in item 3 (i) above.

5. Repeal

The NSW Council of Churches recognises the political and practical difficulties associated with repeal of the *Education Amendment (Ethics) Act 2010*. As indicated above, Council has a range of concerns with the present arrangements and regrets that the NSW Labor Party found it expedient to bind the Department of Education and Communities to introduce SEE classes through legislation rather than departmental policy.

The NSW Council of Churches supports the implementation of significant reforms to the Act and related instruments such as will deliver the changes and benefits recommended in this submission. If significant reforms and a reasonable implementation timetable are not agreed to, the NSW Council of Churches will support repeal of the Act. Such reforms should include an independent review of all aspects of the provision and delivery of SEE classes in NSW state schools to report to Parliament before the date of the next state election.

Conclusion

The Christian faith has profoundly shaped Australian society, has a central place in Australian life today, and will continue to shape our great nation for generations to come. Politicians and policy makers must resist pressure by atheist and secularist lobby groups to excise Christian doctrine and history from the minds and hearts of young Australians, from our books and screens, and from our education curriculum. What these anti-Christian groups offer in place of a comprehensive education, involving proper attention to Christian doctrine and history, is an arid alternative fostering an apparently arbitrary moralism without proper foundations that will starve our communities of the opportunity for genuine human flourishing and bring about the death of civilization as we know it.

The NSW Council of Churches affirms that God has revealed himself to humankind in Creation, in the Bible, and through Jesus Christ, and that this divine revelation provides the best foundation for ethical deliberation and moral development. The Council cannot support any school ethics program that deliberately prohibits a child from learning certain spiritual and ethical truths when forming his or her moral compass. The prospect of large numbers of young children determining their own basis for morality and ethical decision making, intentionally excluded from proper consideration of the Christian foundations for ethics, is a problem for society and not a solution.