INQUIRY INTO EDUCATION LEGISLATION AMENDMENT (PARENTAL RIGHTS) BILL 2020
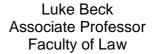
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Submission to the Portfolio Committee No 3 – Education on the Education Legislation Amendment (Parental Rights) Bill 2020

Dear Committee

I am an Associate Professor of Constitutional Law at Monash University.

The *Education Legislation Amendment (Parental Rights) Bill 2020*, if enacted, would be rendered inoperative by force of the *Australian Constitution*. Section 109 of the *Australian Constitution* has the effect that federal law prevails over State law in cases of inconsistency.

The Bill requires schools and the Education Standards Authority to do things that are banned by federal law.

The federal *Sex Discrimination Act 1984* makes it unlawful for a school to discriminate against a student on the ground of the student's gender identity or intersex status. The federal *Sex Discrimination Act* is binding on NSW public schools.

The Bill requires schools to discriminate against students on the ground of students' gender identity and intersex status.

The Bill requires schools to deny the existence of trans and intersex people. The Bill requires schools to tell trans and intersex kids to their faces that they don't really exist. The Bill even has a provision banning school counsellors from providing appropriate care to trans and intersex children.

It is impossible for schools and the Education Standards Authority to simultaneously obey both this Bill and the federal *Sex Discrimination Act*. To the extent of those inconsistencies, the Bill would be inoperative, or – to use to the language of section 109 of the *Australian Constitution* – "invalid".

Laws cannot change the reality that some people are trans and some people are intersex. Laws can only make people's lives better or worse. This Bill makes people's lives worse.

I trust this submission is of assistance.

Yours sincerely

Luke Beck