

**Submission  
No 6**

**INQUIRY INTO EDUCATION LEGISLATION  
AMENDMENT (PARENTAL RIGHTS) BILL 2020**

**Organisation:** Centre for Emotional Health, Macquarie University

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Dear Committee Members,

I am pleased to present the Centre for Emotional Health's submission to the Inquiry into Education Legislation Amendment (Parental Rights) Bill 2020.

The Centre for Emotional Health is an international leader in mental health research and in translating knowledge into products and services that improve people's lives. A key strength is our expertise in children's emotional health. We believe building emotional health in childhood sets the stage for a healthy and productive life. If we can prevent mental health problems in young people, we can have a significant impact on individuals across the lifespan.

Our vision is to build an emotionally healthy community through science and practice. Thus, the Centre for Emotional Health would like to draw the Inquiry's attention to the failings of the Education Legislation Amendment (Parental Rights) Bill 2020:

- It incorrectly denotes that the distinction between sex and gender is a specific moral or ethical viewpoint rather than drawing upon scientific research that acknowledges the two are distinct and that neither are binary
- It incorrectly asserts that morality and core values should not be taught in schools rather than acknowledging scientific evidence about its value
- It violates the Sex Discrimination Act 1984 by prohibiting counsellors/teachers from providing support to sexual minority and gender nonconforming individuals
- It violates ethical codes of conduct that govern counsellors, psychologists, and teachers working within the Australian school system
- It prohibits teachers from obtaining necessary training on gender diversity and on how to support gender nonconforming students
- It sets schools against parents rather than encouraging them to work together in the interest of children's social, moral, and gender development

As a result, the Centre for Emotional Health recommends that the Education Legislation Amendment (Parental Rights) Bill 2020 **be rejected** and that schools ensure:

- policies and procedures support the safety and wellbeing of all students
- leadership proactively supports the inclusion and consideration of all students
- staff and students use inclusive language, including preferred pronouns
- they promote initiatives which support gender nonconforming youth



- teachers are provided with training in how to support gender nonconforming individuals
- schools provide gender nonconforming-inclusive curricula, including scientifically informed sexuality and puberty education classes

Without this educational support, sexual minority and gender nonconforming students will continue to experience social exclusion, bullying, discrimination, depression, and suicidality. By providing staff and students with scientifically-informed training and education, schools will have a positive and long-lasting impact on the lives of gender nonconforming youth. The scientific basis of our comments are presented in the following pages.

We grant permission for our submission to be made public and to include the name of our Centre.

Yours sincerely,

Associate Professor Melissa Norberg  
Deputy Director  
Centre for Emotional Health



## Sex and Gender

Gender and sex have been regarded as distinct concepts across scientific research for many decades and both refer to the presence of general groups of people: males/men/boys and females/women/girls. **Sex** is understood to refer to the biological and anatomical characteristics of these groups of people, whereas **gender** encompasses the social and cultural characteristics associated with these groups of people. Distinguishing sex from gender allows for discussion of gender experiences which extend beyond physical anatomy such as appearance, personality, interests, and behaviour. Some people view their physical anatomy as an important part of their experience of gender, whereas other people see their physical anatomy as unrelated to their gender (World Health Organization, n.d.).

Scientific research further acknowledges that neither gender nor sex are binary. Regarding sex, there is great variation in physical anatomy related to sexual characteristics as evidenced by intersex individuals along with variation in hormones and in X and Y chromosomes. Individuals may have additional sex chromosomes (i.e., XXY, XYY, XXX chromosomes; Morris et al., 2008) or may have chromosomes which do not correspond with their physiological sex characteristics such as women who have XY chromosomes and men who have XX chromosomes (Michala et al., 2008; Zakharia & Krauss, 1990). Gender can be expressed in a variety of ways which do not conform to the gender binary and both cisgender (sex and gender are in alignment; female sex and female gender identity) and transgender (sex and gender do not align; female sex and male gender identity) people can engage in gender nonconformity. Styles of dress, interests, and behaviours have great variation and can be influenced by many things unrelated to gender (Spence, 1993). Furthermore, there are nonbinary individuals whose experience of gender goes beyond the categories of man and woman, including embodying characteristics of both men and women, changing between the categories, and those who see themselves outside of the binary of male and female (Diamond, 2020). Thus, both gender and sex are diverse (Hyde et al., 2019).

Given that neither sex nor gender have straightforward binary categories, it is important to consider the outcomes for children and adolescents who are sex and gender nonconforming. When doing so, we must also consider the outcomes for sexual minority youths. Firstly because the Bill mentions sexuality alongside gender as a matter for parental primacy. Additionally because discrimination, harassment, and bullying research often examines sexual minority individuals alongside gender nonconforming individuals and because many sexual minority individuals subvert traditional gender stereotypes (Levitt, 2019).

Gender nonconforming is a broad term that encompasses children who are cisgender and subvert gender stereotypes as well as queer, nonbinary, agender, polygender, and transgender youth.

## Bullying and Mental Health Problems

Mental health problems are significantly elevated in gender nonconforming youths, and adverse school experiences, such as peer rejection and bullying, are substantial contributing



factors (Strauss et al., 2020). Up to 75% of Australian gender nonconforming youths have been diagnosed with depression and/or anxiety and 80% report self-harm or suicidal thoughts (Strauss et al., 2020). Alarmingly, 50% of transgender and gender nonconforming youths have attempted suicide (Strauss et al., 2020), with those experiencing victimisation in school being four times more likely to attempt suicide than those who are not victimised at school (Goldblum et al., 2012).

Discrimination and marginalisation of sexual minority and gender nonconforming youths is high (Bartholomaeus & Riggs, 2017; Dürrbaum & Sattler, 2020; McGuire et al., 2010). Around 75% of gender nonconforming youths report having been bullied (Strauss et al., 2020). This is not typical for all children; rates of bullying are three times higher among gender nonconforming youths than among cisgender youths (Reisner et al., 2015). Sexual minority children experience similar elevated rates of bullying (Abreu & Kenny, 2018; Katz-Wise & Hyde, 2012).

Students who experience strong pressure to conform to gender stereotypes experience more depression and anxiety and are less accepted by their peers (Yunger et al., 2004). Misgendering students, that is, using incorrect names and pronouns, can have severe impacts on a young person's wellbeing. Misgendering, whether malicious or unintentional, serves to invalidate an individual's gender identity (McLemore, 2015).

Research examining the Australian school system suggests that school staff are key in how a gender nonconforming student experiences their education (T. M. Jones et al., 2016). Transgender students who do not receive teacher support have been found to be over four times more likely to leave school (23% compared to 5% of those with teacher support) and twice as likely to hide at lunch (50% compared to 23% of those who had teacher support). Students without teacher support also are two to three times more likely to encounter various forms of harassment and abuse from other students (T. M. Jones et al., 2016).

A literature review of secondary school experiences of transgender youth located in 10 different countries highlighted that many schools are hostile environments that negatively impact transgender student lives (McBride et al., 2020). Importantly, the school environment also has the potential to provide vital protection and support for gender nonconforming young people (Bartholomaeus & Riggs, 2017).

## **Protective Factors**

Being supported by peers and school staff are vital protective factors for gender nonconforming students. Receiving support from principals, teachers, and other school staff increases students' safety and facilitates their academic success (Greytak et al., 2013; Higa et al., 2014; Luecke, 2011; McGuire et al., 2010). This support also reduces the risk of gender nonconforming young people experiencing depression and suicidal thoughts and engaging in drug-taking (Gower et al., 2018). Gender nonconforming students who receive teacher and peer support experience less discrimination, bullying, and social exclusion, but higher educational outcomes than students who do not receive support (T. M. Jones et al., 2016).



Using correct pronouns plays a pivotal role in how gender nonconforming young people negotiate their identity in school (McBride et al., 2020). When pronouns and chosen names are respected by teachers and peers, young people are less likely to experience negative health outcomes and are more likely to have improvements in their mental health (Pollitt et al., 2021).

## Supportive School Environments

Academic literature emphasises that social and environmental factors beyond parenting are key factors that impact child development. For example, both peers and teachers can provide social and emotional support within a school environment (van der Kaap-Deeder et al., 2017; Verschueren, 2015). Teachers who demonstrate acceptance and respect can foster children's empathy, prosocial behaviour, and psychological adjustment (Eisenberg et al., 2015; Rohner, 2010).

A recent report examining over 6000 young Australians who identified as LGBTQIA+ identified that only 57% felt supported by their families with whom they had disclosed their sexuality or gender identity (Hill et al., 2021). Importantly, the report also demonstrated that a school climate that fosters a supportive environment of all students, regardless of sexual orientation or gender identity, is conducive to increased student wellbeing.

To foster supportive school environments that facilitate social and intellectual development, a *whole-of-school approach* has been recommended, which requires involvement from students, teachers, administrators, school counsellors, and parents. Specific recommendations based on the existing literature include:

- Ensuring policies and procedures support the safety and wellbeing of gender nonconforming students (Bartholomaeus & Riggs, 2017)
- Having a leadership team that proactively supports the inclusion and consideration of gender nonconforming students (Bartholomaeus & Riggs, 2017; Coolhart & MacKnight, 2015)
- Using inclusive language across the school, including gender neutral and preferred pronouns (Bartholomaeus & Riggs, 2017; Coolhart & MacKnight, 2015; McBride et al., 2020; McGuire et al., 2010; Pollitt et al., 2021)
- Supporting LGBTQI specific initiatives, such as alliance groups within the school (Bartholomaeus & Riggs, 2017; Coolhart & MacKnight, 2015)
- Training teachers to take the perspective of sexual minority and gender nonconforming individuals and respond with empathy and without prejudice (Lindsey et al., 2015)
- Training school staff to be allies to sexual minority and gender nonconforming youth as a way of supporting those in need (Cooper et al., 2014)
- Providing sexual minority and gender nonconforming-inclusive curricula to reduce levels of victimization (Greytak et al., 2013)
- Modify sexuality and puberty education classes to meet the needs of sexual minority and gender nonconforming youth (Haley et al., 2019; T. M. Jones & Hillier, 2012)

- Providing anti-discrimination and anti-bullying programs that highlight the unacceptability of bullying gender nonconforming peers and encouraging peer bystanders to defend gender non-conforming peers who are bullied (Burk et al., 2018; Polanin et al., 2012)

## Evidence-based Education

Education relies on the implementation of evidence-based practice, whereby educators synthesise various types of evidence, such as contextual evidence, and apply this knowledge in their teaching models (Bruniges, 2005). These evidence-based practices are currently promoted in Australian teaching models and inform decisions regarding educational policy (Clinton et al., 2018).

In addition to evidence-based practice, implementing inclusive curricula that focus on diversity regarding culture, disability, and sexual orientation have received empirical attention. Specifically, findings indicate that implementing an inclusive curriculum in schools is associated with a positive school climate, indicated by higher perceived safety and reduced bullying (Snapp et al., 2015), and student wellbeing and resilience (Read et al., 2015).

Research indicates that teachers require professional development to adequately instruct on gender identity and to create safe environments for students. Without training, teachers often fail to intervene when gender nonconforming youth are harassed by others, sometimes even blaming gender nonconforming individuals, or initiating harassment, contributing to a hostile school environment (Gutierrez, 2004; Higa et al., 2014; McGuire et al., 2010; Payne & Smith, 2011; Sausa, 2005). Studies show that many schoolteachers lack knowledge about diversity in gender and struggle to understand and support gender nonconforming students in the absence of preparation and training (Blair & Deckman, 2019; Luecke, 2011). Therefore, it is crucial that teachers are trained in the most up to date practices for promoting gender inclusivity in their classes.

## Education Legislation Amendment (Parental Rights) Bill 2020

First, the Bill fails to recognise the extensive scientific research that shows that both gender and sex are diverse. It incorrectly denotes that the distinction between sex and gender is a specific moral or ethical viewpoint by defining gender fluidity as:

“a belief there is a difference between biological sex (including people who are, by their chromosomes, male or female but are born with disorders of sexual differentiation) and human gender and that human gender is socially constructed rather being equivalent to a person’s biological sex.”

Second, the Bill also asserts that morality and core values should not be taught at school, as such topics are “matters of parental primacy”. This claim ignores the demonstrated benefit that schools have on children’s development of empathy and moral development.

Third, the Bill prohibits school counsellors/teachers from providing support to sexual minority and gender nonconforming students, thereby discriminating against these students



based on gender identity, intersex status, or sexual orientation. This violates the Sex Discrimination Act 1984 and is in immediate violation of several ethical codes outlined by professional and governmental bodies that govern various school staff, including:

- Standard A.1.3 of the Australian Psychological Society Code of Ethics: Psychologists are to “assist their clients to address unfair discrimination or prejudice that is directed against their clients”, including issues involving gender and sexuality (Australian Psychological Society, 2007)
- Standard 4 of the Psychotherapy and Counselling Federation of Australia (PACFA) Code of Ethics: Practitioners are to communicate understanding of client issues related to matters including gender and sexual identity (Psychotherapy and Counselling Federation of Australia, 2017)
- NSW Department of Education ‘Bulletin 55 – Transgender Students in Schools’: It is “prohibited to unlawfully discriminate against a student on transgender grounds by denying the student access, or limiting the student’s access to any benefit provided by the educational authority”(NSW Government, n.d.)

Finally, the Bill would at least maintain or even worsen the current high and very unacceptable levels of bullying and mental health problems evidenced by sexual minority and gender nonconforming children and adolescents. **Fifty percent of transgender and gender nonconforming youths have attempted suicide (Strauss et al., 2020). Youth who are victimised at school are four times more likely to attempt suicide (Goldblum et al., 2012) and gender nonconforming students are three times more likely to be victimised than cisgender youths (Reisner et al., 2015).**

## Conclusion

The Centre for Emotional Health aims to increase understanding, treatment and prevention of emotional health problems across the age spectrum. Accordingly, the Centre for Emotional Health recommends that the Education Legislation Amendment (Parental Rights) Bill 2020 **be rejected** and that schools provide further support to students and staff to support the emotional health of all children within the Australian school system. This support in no way compromises parental rights; rather it joins parents as allies with the school to promote the best interests of their children and their wellbeing.

If you would like to discuss any of the evidence further, please contact our Business Administration Officer, Nicholle McNiece,

We hope the Centre for Emotional Health’s submission to the Inquiry offers insight and provides constructive advice for the Australian Educational System.





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