

**Submission
No 16**

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

Organisation: Australian Christian Lobby

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25 February 2021

Portfolio Committee No. 3 - Education
Legislative Council
Parliament of New South Wales
Macquarie Street SYDNEY NSW 2000

Dear Chair,

RE: INQUIRY INTO THE EDUCATION LEGISLATION AMENDMENT (PARENTAL RIGHTS) BILL 2020

The Australian Christian Lobby (**ACL**) welcomes the opportunity to provide this submission to Portfolio Committee No. 3 – Education for its inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020 (**the Bill**). We would be happy to appear before the Committee to speak in support of these submissions.

SUMMARY

We support the Bill. It enacts suitable and robust protections to recognise the right of parents in their children’s education and to mandate that education of children is to be ideology-free.

We consider the framework for banning the teaching of gender fluidity and for governing how schools teach matters of parental primacy to be well-balanced and well-suited to advance the objectives of the Bill. We propose only minor amendments that could give better effect to the purpose of the Bill.

We commend the concern demonstrated throughout the Bill for keeping parents informed of the curriculum their students are being taught. This is a much-needed reform.

ACL

The ACL’s vision is to see Christian principles and ethics influencing the way we are governed, do business, and relate to each other as a community. The ACL seeks to see a compassionate, just and moral society through having the public contributions of the Christian faith reflected in the political life of the nation.

With more than 190,000 supporters, the ACL facilitates professional engagement and dialogue between the Christian constituency and government, allowing the voice of Christians to be heard in the public square. The ACL is neither party-partisan nor denominationally aligned. The ACL representatives bring a Christian perspective to policy makers in Federal, State and Territory Parliaments.

NEED FOR EDUCATION REFORM

We consider that this Bill addresses vital issues present in the NSW educational system which have been too long ignored by Parliament and for which legislative reform is sorely needed.

While the NSW government rejected the Safe Schools program and withdrew it from NSW public schools, the ideological positions on gender and sexuality which rendered the content of the program so troubling and unsuitable still finds expression in NSW classrooms.

Currently, Education legislation requires children to be provided with an education that promotes family and community values (s6(1)(n) of the *Education Act 1990*) and which is strictly non-sectarian and secular (s30 of the *Education Act 1990*). NSW education increasingly includes the teaching of dogmatic and polemical ideology that is inconsistent with community values and which seeks to exclude parents.

For example, in her book for educational workers titled *Schools as Queer Transformative Spaces*, Associate Professor Jacqueline Ullman of Western Sydney University - a prominent academic in the field of Educational Psychology – tells teachers how they “can ‘queer’ schools to make them less oppressive in terms of gender and sexuality” (from the book’s own description) with instructions such as:

“It should be noted that the inclusion of other social justice or equity issues do not require parental permission for inclusion, and for true transformation to occur, [Gender and Sexuality Diverse] education should not be optional...”

This is one of many examples of where educators are intruding into the domain of parents and guardians and usurping their responsibilities. Schools should not pursue goals of “transformation” of children in respect of ethical and moral values. Such education should be carried out by parents or in consultation with parents recognising that parents have primary responsibility and authority in the moral formation of their children.

Professor Ullman includes suggested classroom resources such as a booklet entitled *Girls and Boys: Identity and Body*. We attach this booklet to our submission.

Schools should not be introducing children to resources such as this without parental consent. It is not in the interests of parents or students and is inconsistent with the fundamental rights of parents and children in respect of education under international covenants such as:

- (a) The Universal Declaration of Human Rights (Article 26(3));
- (b) The Convention on the Rights of the Child (Articles 5 and 14);

- (c) The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (Article 5(2)); and
- (d) The International Covenant on Civil and Political Rights (Article 18.4).

Opponents of the Bill argue that its introduction will cause divisive and harmful debate. Such objections are unfounded. The Bill seeks to uphold parental rights and prevent the teaching of divisive and dogmatic ideology about ethical and moral issues.

This objection gives no legitimate basis for the suspension of our democratic processes by which our lawmakers seek to implement just laws. The spectre of a harmful debate is typically raised as an excuse to maintain the cultural status quo and prevent further public discussion of vital issues. Such an approach will never produce a just, democratic outcome.

REVIEW OF THE PROPOSED AMENDMENTS

Elements Common to All Three Acts - Definitions

The Bill inserts definitions for the terms *gender fluidity* and *matters of parental primacy* into all three Acts contemplated for amendment by the Bill, as follows:

***gender fluidity** means a belief that 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.*

***matters of parental primacy** means, in relation to the education of children, moral and ethical standards, political and social values, and matters of personal wellbeing and identity including gender and sexuality.*

These definitions are well-balanced and appropriately crafted to achieve the commendable objects of the Bill. We fully endorse their inclusion in all three Acts.

However, we recommend some minor amendments to the *gender fluidity* definition, as follows:

- (a) As a point of construction, the definition ends with the words “and that human gender is socially constructed rather being equivalent to a person’s biological sex”. We trust that this is a simple drafting error and that that the word “than” will be introduced between “rather” and “being” in a later draft of the Bill.
- (b) The definition includes a reference to those “who are, by their chromosomes, male or female but are born with disorders of sexual differentiation” which is a reference to what is commonly defined as “intersex”. While, as far as we are aware, this is a correct definition, alternative working could be “(including intersex people who are born with atypical biological sex characteristics)” to clarify that what is referred to is “intersex” persons and to clarify that intersex characteristics are biological and not psychological.

Education Act 1990

The proposed amendments to the *Education Act 1990* (NSW):

- (a) promote transparency and parental responsibility in matters of parental primacy;
- (b) codify international law in relation to parental rights;
- (c) honour the convictions of parents in their child's education; and
- (d) seek to eliminate the teaching of ideologically-driven content, especially gender fluidity.

We are in substantial agreement with the proposed amendments set out by the Bill to the *Education Act 1990* (NSW) and considers them well-suited to the objects of the Bill.

In addition to the amendments prohibiting the teaching of gender fluidity, we particularly commend the recognition of article 18(4) of the ICCPR in the proposed object 6(1)(p), and the commitment demonstrated in the Bill to require schools to work alongside and in co-operation with parents in providing teaching about moral and ethical issues.

Section 17E and subsections 14(5), 20A(2)(m) and 20A(2)(ma) require schools to keep parents fully informed of all content taught by teachers to students and explicitly mark out where such content may touch on matters of parental primacy. These are highly welcome changes, as is section 17D empowering parents to withdraw their child from objectionable content.

We also wish to comment on section 17B, which reads as follows:

“In government schools, the education is to consist of strictly non-ideological instruction in matters of parental primacy. The words non-ideological instruction are to be taken to include general teaching about matters of parental primacy as distinct from advocating or promoting dogmatic or polemical ideology”

This section employs identical wording to the current section 30 of the Education Act which prohibits religious teaching in schools that promotes a particular theology.

We consider that this approach has merit. As is the case for religious beliefs and convictions, there are a variety of views and perspectives in Australian society on ethical and moral issues and political values. So, just as the Education Act prohibits sectarian religious indoctrination, it should also prohibit imposition of partisan and controversial ideologies in the classroom. On this basis, we commend the use of an identical approach to require ideologically non-partisan education as has been successful for requiring non-sectarian religious education.

The Bill's specific prohibition of the teaching of gender fluidity is a natural extension of this approach. Gender fluidity is a highly controversial and dogmatic ideology about gender and sexuality. It is inconsistent with the ethical and moral values of a majority of Australian parents who send their children to school to be taught about a full spectrum of ethical and moral values without being subjected to dogmatic teaching of only one set of beliefs.

Some suggest that banning the teaching of gender fluidity could prejudice LGBTQ+ students and prevent such students from receiving assistance in schools. We consider such arguments to be clearly specious when the approach to gender fluidity taken by the Bill is compared to the existing approach taken to sectarian religious teaching in s30 of the Education Act:

- (a) It would be absurd to suggest that the ban on religious teaching in s30 of the Education Act has prevented religious students in NSW from receiving a quality education or from receiving guidance or assistance by the school when struggling with spiritual matters. This section merely bans the teaching of religious dogma.
- (b) There is no evidence that the mental health of religious students in NSW is adversely affected by the banning of the teaching of religious dogma.
- (c) There is no evidence that the prohibition of teaching specific religious dogma in the Education Act has affected the quality of education received by students or required schools to compromise on the quality of education provided to students.

We consider that it is appropriate for the Education Act to address ideological dogma and religious dogma in identical fashion. The Bill does this without overreach that could affect the quality of education of students and services and counsel provided to LGBTQ+ students.

However, some of the proposed amendments might benefit from amendment to better achieve the purpose of the Bill:

- (a) We suggest that the Bill's addition to subsection 4(b) recognising parental primacy in ethical moral matters is better achieved by an amendment to subsection 4(c) which adds at the end of the subsection "subject only to the State's obligation to recognise the primary authority of parents in all education concerning matters of parental primacy,". This would reflect that the State (and by extension State schools) needs to recognise parental primacy on these matters.
- (b) In relation to the proposed new object in subsection 6(1)(o) is redundant given the existing requirement in subsection 6(1)(n) to provide an education consistent with family and community values.

Otherwise, we support the Bill's proposed amendments to the Education Act 1990.

Education Standards Authority Act 2013

The *NSW Education Standards Authority Act 2013* (**NESA Act**) establishes and sets out the functions and powers of NESA to oversee and ensure education in NSW schools. The Bill inserts a new subsection 11(1)(d) in the NESA Act to add to NESA's principal objectives the obligation to ensure that schools uphold parental authority on ethical and moral issues and do not teach gender fluidity.

We support the proposed amendment which is patterned on existing subsection 11(1)(c) of the NESA Act.

Given the failure of NESAs to properly regulate curriculum and teacher training and standards as set out by Mark Latham in his second reading speech of this Bill, this amendment is appropriate.

Mr Latham has provided compelling evidence that polemical ideology on moral and ethical issues is taught in NSW schools and is facilitated through approved training courses that NESAs has approved. These courses do not contribute to the quality of education provided to children in NSW schools but substitute quality instruction in core educational subjects with social and political indoctrination on issues that are the primary responsibility of parents, not schools.

Schools must deliver education, not indoctrination. It is appropriate for NESAs to be given the powers to review NSW schools to ensure that such indoctrination does not happen, and where it is happening, that it stops.

Teacher Accreditation Act 2004

The amendments to the *Teacher Accreditation Act 2004* (NSW) seek to ensure that teaching and accreditation standards are accessible to parents, respecting of parents' rights, and that they prohibit the teaching of gender fluidity. The Bill imposes a proposed sanction of mandatory revocation of accreditation for breach of these requirements.

We are in broad agreement with the proposed amendments to the Teacher Accreditation Act. In particular, the commitment to transparency embodied in the amendment to subsection 19(2) of the Act is commendable.

The Bill proposes a new subsection 24(2) of the Act which will require NESAs to mandatorily revoke the accreditation of any teacher who teaches gender fluidity or fails to recognize that parents are primarily responsible for matters of parental primacy. We consider that practically, this power is already granted to NESAs in subsections 24(1)(g) of the Teachers Accreditation Act which permit NESAs to revoke registration of a teacher who fails to comply with professional teaching standards (which will include a prohibition on teaching gender fluidity).

We support mandatory revocation of teacher registration only where a teacher deliberately engages in indoctrination on gender fluidity or other ethical and moral values that are matters of parental primacy. In our view, the new subsection 24(2) that is proposed to be inserted into the Teachers Accreditation Act should include a higher threshold for revoking registration of teachers. We consider that deregistration of teachers is appropriate only where there has been a deliberate and persistent failure by a teacher in respect of the teaching of gender fluidity or indoctrination in ethical and moral virtues on matters of parental primacy.

CONCLUSION

We support the Bill as a valuable legislative initiative for NSW that will protect children from ideological dogma and recognise that parents are the primary influences in their children's lives on ethical and moral issues.

In our view, there are areas where the intentions of the Bill could be better achieved and improved as set out in these submissions.

We would welcome the opportunity to appear before the Committee to make oral representations in respect of this submission.

Yours sincerely,

Dan Flynn

Deputy Director