

**Submission  
No 18**

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

**Organisation:** Australian Psychological Society

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To Whom It May Concern,

### **Submission to the Education Legislation Amendment (Parental Rights) Bill 2020**

The Australian Psychological Society (APS) welcomes the opportunity to provide a submission in response to the Education Legislation Amendment (Parental Rights) Bill 2020.

The APS is the peak professional body for psychology in Australia, representing over 25,000 members nationally. A key goal of the APS is to actively contribute psychological knowledge for the promotion and enhancement of community wellbeing.

The APS has written many relevant submissions and resources relating to gender and sexuality, as well as other issues such as climate change, which may be useful and relevant in your consideration of this Bill. They include:

- [Submission to the Religious Freedom Bills - Second Exposure Drafts](#) (2020)
- [Ethical guidelines on working with sex and/or gender diverse clients](#)
- A series of information sheets:
  - [Transgender and Gender Diverse Children](#)
  - [Tips for talking with children and young people about marriage equality, respect, diversity, and relationships](#)
  - [Communicating about marriage equality and other issues](#)
- [Statement about mental health practices that affirm transgender people's experiences](#)
- [Climate Change and Psychology: Position Statement](#)

If the Committee requires further APS input, I may be contacted through my office

Yours sincerely

**Zena Burgess FAPS FAICD**  
Chief Executive Officer

## **APS Submission to the Education Legislation Amendment (Parental Rights) Bill 2020**

The APS opposes this Bill because it undermines a strong education system underpinned by inclusion, recognition of diversity and respect.

Of particular concern to the APS is that this Bill has significant potential mental health ramifications for school children, and may disadvantage already vulnerable children. Furthermore, the proposed changes may contravene the rights of young people ([United Nations Convention on the Rights of the Child](#)) and evidence-based best practice.

This submission focuses on the impact that this Bill, if passed, would have on the mental health and wellbeing of school children and the school community more broadly, based on scientific evidence.

It is likely that this Bill will impact on the ability of school psychologists, as well as teachers and other school staff, to provide support to children who are exploring their identities and/or identify as Lesbian, Gay, Bisexual, Transgender, Queer, Intersex or any other term people use to describe experiences of their gender, sexuality, and physiological sex characteristics (LGBTQI+).

Any legislation which has the potential to have a detrimental impact on children's sense of autonomy, independence and self-worth is likely to have a direct negative impact on their mental health and wellbeing. If a young person perceives that they cannot speak about personal issues of concern (including gender / LGBTQI+ issues and climate change), without fear of judgement/stigma or discrimination, then they may be at significantly higher risk of mental health issues and dying by suicide than the general community. Therefore, making schools safe and supportive environments, particularly for gender and sexually diverse young people, is critical to promote and maintain their health and wellbeing.

### **Role of psychologists in schools**

By prohibiting psychologists to acknowledge and talk about LGBTQI+ issues, this legislation could impact the [current roles of psychologists in schools](#) and affect their ability to provide essential support to LGBTQI+ students in NSW schools.

The Australian Child and Adolescent Survey of Mental Health and Wellbeing report showed that schools play a major role in supporting young people with emotional and behavioural problems and are often where symptoms of mental disorders are first identified.<sup>1</sup> Therefore it is critical that psychologists, counsellors and teachers are available to discuss the concerns of all young people.

Psychological evidence highlights the detrimental impact of discrimination on mental health and wellbeing, and the harm caused when children do not feel like they are accepted or belong.<sup>2</sup> For children and adolescents who do not conform to socially prescribed gender norms, they may experience harassment in school,<sup>3 4 5</sup> putting them at risk for social isolation, depression, and other negative sequelae.<sup>6 7</sup>

The *Australian Standards of Care and Treatment Guidelines for trans and gender diverse children and adolescents*<sup>8</sup> highlight the importance of gender affirming care for the mental health of trans and gender diverse students and the risks to young people's mental health if they do not have their experiences affirmed or feel that they belong. School psychologists play

an important role in supporting students with mental health issues – depression, anxiety, suicide ideation, self-harm – all of which are well documented risks for trans and gender diverse students. Australian research indicates that 1-2% of each school population is transgender and at risk of mental health problems because students don't receive the support that they need.<sup>9</sup>

In a report by the Young and Well Cooperative Research Centre, 16% of queer young Australians had attempted suicide while a third had harmed themselves primarily because of homophobic harassment.<sup>10</sup> Two thirds had been bullied about their sexual orientation, and 42% had thought about self-harm or suicide. Furthermore, schools were identified as the major site in which homophobia and transphobia prevailed. This Bill, in preventing discussion about trans and gender diversity, is therefore likely to further ingrain and perpetuate the feelings of discrimination and exacerbate mental health issues for this already vulnerable group.

There is a severe lack of resources and access to professional help for trans and gender diverse children and their parents.<sup>11</sup> Riley found that children need to be heard and accepted by their parents without punishment, they need information and peer contact, they need personal gender expression and they need safety. Psychologists in schools are often best placed to support and provide this. They can also provide professional learning for teaching staff in trans positive approaches and they can also provide developmentally appropriate educational resources to support schools to foster positive mental health for trans and gender diverse students.

This Bill specifically prevents school psychologists and counsellors from affirming a trans or gender diverse student or providing them with any at-school support or referrals to gender affirming support services (regardless of age and maturity). This Bill therefore undermines and is in direct conflict with both the APS Statement about [Mental health practices that affirm transgender people's experiences](#) and the APS Code of Ethics.<sup>12</sup> The Code of Ethics and associated guidelines provide a framework around the ethical responsibilities of practicing psychologists regarding appropriate and expected behaviour. Of particular relevance to this legislation are the [Ethical guidelines on working with sex and/or gender diverse clients](#)<sup>13</sup>. These guidelines include a section on working with children and young people:

6.2. Psychologists give careful consideration to when and how the family and the young person's school are involved. The overarching aim is to minimise potential harmful impacts by taking appropriate steps to protect sex and/or gender diverse clients from discrimination, bullying, violence, and distress, in order to support and enhance their development, wellbeing and functioning.<sup>14, 15</sup> Psychologists attend to and balance the competing needs of children, young people, and their parents.

Psychologists in schools understand the importance of keeping the child's family in mind and informed, in a way that is appropriate to the age and stage of the child. Although unseen, psychologists in schools have several clients they are juggling - the child, their family and the school. Present or not, parents are important 'clients'. There can be competing interests here. Our Code of ethics would urge intentionality and reflection in such instances, and appropriate supervision, as needed.

## **Rights of the Child**

The [United Nations Convention on the Rights of the Child](#) (to which Australia is a signatory) states that all appropriate measures should be taken to ensure a child is protected against all forms of discrimination, and this includes the beliefs of the child's parents (Article 2). Children have the right to access health services (Article 24) which includes access to psychological support in schools.

Interestingly, since 2019 the percentage of Australian young people identifying "equity and discrimination" as an issue of national importance has increased from 25% to 40%.<sup>16</sup>

## **Parental rights and 'parental primacy'**

The APS supports parents to be the primary providers of religious and moral values, and acknowledges that religion can be a very important and potentially positive part of a person's formation and also a potential point of discrimination. The APS also gives parents much authority in the raising of their children, something which is acknowledged in the [Ethical guidelines for working with young people](#).<sup>17</sup>

However, this Bill affords rights to parents, over and above schools and the children themselves, which may have the potential to significantly impact children's healthy development and wellbeing. While parents and the family have an important role in a child's development, with adolescence comes a time when young people need to explore their identities, and this occurs alongside a shift in attachments to peers and social groups other than the family (including schools).<sup>18</sup>

The Bill focuses on "matters of parental primacy" and states that "parents not schools are primarily responsible for the development of their children in relation to core values such as ethical and moral standards, social and political values and an understanding of personal identity, including in relation to gender and sexuality" (p.1, [Explanatory Note](#)).

The idea of 'parental primacy' needs care. This is not primacy over the education of children other than your own. In this respect, the legislation is vastly overreaching. Also 'primacy' does not mean you are right. It affords respect, but should not prevent teaching instruction to respectfully acknowledge differences of view. This is vital in our multi-cultural society where "core values" are likely to vary enormously, and as such will also be extremely challenging to determine what they constitute in the context of this Bill.

Some of the ideas around consultation with parents in this legislation might have merit. This does not include prohibiting information provision about 'gender fluidity', but may include affording families with some choices about when children might attend and to respect diverse religious and moral values.

A group caught in the crossfire, as it were, are young people from the families of religious minorities who may be exploring gender and sexuality. How can we be respectful and supportive of them individually *and* of them in their family context? These are not easy questions.

By ensuring that parents, and the community more broadly, have access to appropriate scientific knowledge (rather than the spread of misinformation which we know exists), we have the opportunity to ensure all parents can make informed decisions that align with their religious and moral values. It must also be acknowledged that parents also ultimately have a choice about where to send their children to school.

## **Education system**

Psychologists have an ethical responsibility to work to ensure that all Australians are supported to achieve positive mental health and full social inclusion. Likewise, schools should promote a sense of inclusion and belonging where diversity is valued. When children feel they belong their learning is likely to improve. Unhappy children don't learn.

If teachers and other school staff (including psychologists) are prohibited from recognising the existence of trans and gender diverse people, then this Bill will prevent schools from enacting their duty of care to the welfare of their students. Teachers will avoid discussion around certain subjects (e.g. about LGBTQI+ people) for fear of retribution and this in turn will send a message to students and teachers from these communities that they are not fully accepted and don't belong. This will serve to bolster the heteronormative nature of the school environment and create a culture where sexual and gender minority youth continue to be discriminated against, abused, bullied, and marginalised.<sup>19 20 21</sup> Bullying and discrimination can deeply impact a young person's mental health, self-concept and sense of safety. This can in turn affect school attendance, concentration and academic achievement.

School needs to be a safe, impartial location to allow young people to flourish in a context of open discussion and respect for others. It is a feature of adolescence to explore and enquire, it is not unhealthy it is protective.

The legislation's use of the term 'teaching' needs to be questioned and defined. It is assumed in the Bill that all mention of 'gender fluidity' is a form of almost counter-religious 'teaching' in favour of 'gender fluidity'. In various school areas, classes naturally allow for discussion of different attitudes, as different attitudes. This seems healthy and a way of allowing children from conservative religious families to receive information but also to have the ideas presented respectfully, as part of a contest of ideas. Hopefully this would allow for those who are exploring to be aware that there are other perspectives than those of their family. Done well, this could be healthy, respectful and appropriate.

In the same way that the education system teaches children about religion, the same should be the case for teaching about gender diversity. That is, children are taught that there are many different religions, that no particular religion is right and wrong, but that people have a personal choice and these choices must be respected. In the same way, the APS believes that the education system should teach children about gender diversity, and that different choices should be respected. Most importantly, teaching about gender diversity should not be excluded because it is regarded by some as wrong.

The APS believes that educators are in the best position to determine the syllabus within their governance structures, and that students should be supported to develop their own capacity to think independently. This Bill is very broad and treats all education of children from kindergarten to Year 12 the same.

## ***Non-ideological teaching***

This Bill aims to prohibit schools, teachers, and training courses from teaching about gender diversity, and "for other purposes" ([p.1](#)). The APS is particularly concerned about the open-ended and ambiguous use of the term "other purposes" which may pave the way for deleterious misuse and misapplication.

This Bill will allow parents to withdraw students from the classroom where they object to "[ideologically-based and political](#)" teachings, and therefore could include issues such as gender

identity, sexual orientation, religious beliefs, climate change, and Australian history. In this way, the Bill will have the effect of depriving children in public schools from hearing and talking about different perspectives on important issues and potentially stifle child development.

Teachings are not “ideologically-based and political” if they are evidence based. For example, the science of climate change is extremely well-established. It is not a matter of being ideological or political. However, if a parent claims that climate change is ideological, then this Bill has the potential to allow parents to remove their child from lessons, as well as put teachers and other staff at risk from losing their jobs if they include content related to climate change.

This Bill therefore directly contravenes the [APS position statement on climate change](#), whereby the APS recommends that governments and education providers should develop and implement national curricula on climate change, which include the science of climate change, its psychological and social dimensions, and solutions to it.

Surveys show most kids know something about climate change already. But there are often gaps in their knowledge and misconceptions. It is important that schools are able to give children an accurate and complete understanding of the causes and consequences of climate change, as well as ways in which it can be addressed.<sup>22</sup>

The [UN Convention of the Rights of the Child](#) affirms children's right to know about issues that will affect their future and be involved in decision-making about them. This Bill has the potential to hinder education about a lot of important issues, and there is no bigger issue that will affect children’s future than climate change.

### **Conclusion**

This Bill, if passed, could have a potentially significant and harmful impact on children’s mental health, wellbeing and education. In particular, it will impact on the ability of school psychologists, as well as teachers and other school staff, to provide support to already vulnerable children. On this basis, the APS opposes this Bill.

### **Acknowledgements**

The APS acknowledges the significant contributions from Members with broad ranging expertise in mental health and wellbeing particularly relating to schools and education, LGBTIQ+ communities, and climate change.

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