

Submission
No 23

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

Organisation: Family Planning NSW

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Submission of Family Planning NSW

Education Legislation Amendment (Parental Rights) Bill 2020

February 2021

Family Planning NSW welcomes the opportunity to provide feedback on the Education Legislation Amendment (Parental Rights) Bill 2020. We have a strong history of consulting with the NSW Legislative Council Portfolio Committee No. 3 – Education and encourage the Committee to ensure that every student in NSW has the opportunity to receive a quality and inclusive education.

About Family Planning NSW

Family Planning NSW is the leading provider of reproductive and sexual health services in New South Wales (NSW) and Australia. We are experts in clinical service provision and comprehensive sexuality education. Our mission is to enhance the reproductive and sexual health and rights of our communities by supporting all people to have control over and decide freely on all matters related to their reproductive and sexual health. Our work is evidence-based and shaped by our research.

Each year we provide more than 31,000 clinical occasions of service to clients, information and health promotion activities to communities, and best practice education and training in reproductive and sexual health for health professionals, educators, disability support workers and welfare professionals.

Our services are targeted to marginalised and disadvantaged members of the community, including young people, people from culturally and linguistically diverse and Aboriginal and Torres Strait Islander backgrounds, and people with disability. A key focus area for our organisation is enabling young people to achieve good reproductive and sexual health by providing youth-targeted services.

The services we provide to support young people include:

- youth-friendly reproductive and sexual health clinics across NSW
- health information and education through our bodytalk.org.au website
- community and school-based education for students and young people
- information for parents and carers on discussing reproductive and sexual health with their children

Family Planning NSW offers training, information and resources for teachers and educators to enable them to deliver holistic comprehensive sexuality education in accordance with the NSW curriculum. All Family Planning NSW professional development courses for teachers are endorsed by the NSW Education Standards Authority.

Implications of the Bill on quality education

Family Planning NSW supports the provision of quality, inclusive and evidence-based education for all young people and believes that such education is a human right. As it stands, the Education Legislation Amendment (Parental Rights) Bill 2020, hereafter referred to as the Bill, infringes on the rights of students to receive a quality education in a safe and inclusive environment, and limits the ability of teachers to provide effective and holistic education.

Our primary concern is that the Bill will negatively impact the provision of essential holistic, evidence-based, inclusive and comprehensive sexuality education, and therefore have severe implications on the social and emotional development of vulnerable and marginalised students, particularly those who are intersex and/or gender diverse.

Recommendation

Family Planning NSW strongly recommends that:

1. the NSW Government not pass the Bill. The Bill is unworkable and infringes on the rights of students and teachers in NSW schools.

Major concerns

It is our view that failure to adequately consider the broader implications of the Bill, both in terms of human rights and the provision of evidence-based and inclusive education, will have significant impacts on the social, emotional and physical health and wellbeing of students and teachers in NSW.

The Bill (which is widely unworkable) undermines the right of every child to receive a quality education in an environment that is safe, inclusive and responsive. The Bill seeks to prohibit the teaching of 'ideological values' which ultimately denies students a quality education on contemporary and important topics including comprehensive sexuality education, climate change, Australian history and racism. Family Planning NSW does not support the language of 'ideological values' in the draft Bill. Our position is evidence-based and focused on meeting community needs from a health and evidence perspective.

Additionally, the Bill restricts the ability of teachers to respond to the emotional, moral and social developmental needs of their students, and privileges the beliefs of a minority of parents over the educational needs of all students.

To inform the Committee's deliberations, our key concerns are listed below:

1. The Bill undermines Australia's international commitment to the provision of inclusive and equitable quality education

Australia has made a global commitment to ensuring inclusive and equitable quality education for all.(1) On 25 September 2015, the Hon Julie Bishop MP joined 193 global leaders to welcome and endorse the 2030 agenda for Sustainable Development, which includes a goal in relation to provision of inclusive education and opportunities. Australia openly participated in international discussions to not only design, but support, the 2030 Agenda.

The Bill starkly defies Australia's commitment to the 2030 Agenda of the Sustainable Development Goals, specifically Sustainable Development Goal 4: ensure inclusive and equitable quality education and promote lifelong learning opportunities for all; and, target 3.7 which calls for countries to ensure universal access to sexual and reproductive health-care services, information and education by 2030.

NSW has much to be proud of in regard to the high quality of education available to students across the state. However, there remains no consistent approach to the provision of essential evidence-based comprehensive sexuality education, and an alarming political discourse that seeks to limit the provision of inclusive and holistic education, including comprehensive sexuality education, from the NSW curriculum.

Recently, the United Nations Human Rights Council called for the Australian Government to foster and advance the human rights of LGBTIQ people and end discrimination on the grounds of sexual orientation and gender identity.(2) The Bill positions intersex children as disordered. These children should be provided non-discriminatory information about their bodies and feel respected at school.

The Bill not only creates exclusionary and unresponsive school environments, especially for those who are intersex and/or gender diverse, but defies Australia's commitment to inclusive education and the United Nations Human Rights Council's recent recommendation.

2. The Bill creates exclusionary learning environments for students, including intersex and/or gender diverse students

Family Planning NSW strongly believes that every student has a right to receive a quality education in a school where they feel valued and included.

The role of teachers in delivering quality and inclusive education should not be limited, nor should their role in providing developmental support to students. Many students view their teachers as safe

and trusted adults and look to them for support and guidance on a range of issues, including in relation to reproductive and sexual health and family and domestic abuse.(3-5)

NSW schools have a duty of care to students to ensure that learning is conducted in a safe manner, and have a responsibility to ensure the protection, safety and welfare of each student, as outlined in NSW Department of Education's *Teachers Handbook: Professional and Legal Responsibilities of Teachers*.(6) The Bill undermines the protection and welfare of students, particularly those who are intersex and/or gender diverse, by creating school environments that are not able to meet the needs of all students.

The Bill prohibits providing support to intersex and/or gender diverse students as it essentially bans teachers and schools from recognising their existence under threat of deregistration. This will not only contribute to the establishment of exclusionary school environments, but will also perpetuate instances of bullying and peer victimisation of intersex and/or gender diverse students as teachers may not be able to implement relevant anti-bullying policies.

Bullying and peer victimisation has devastating impacts on the mental, physical, social and emotional health of students, especially those who are gender diverse.(4, 7, 8) Students who are gender diverse are more likely to be victims of cyber bullying, emotional abuse, sexual abuse and other forms of assault.(4, 7, 8) These harmful experiences place gender diverse students at higher risk of being socially isolated, disengaging from the education system, suffering from depressive symptoms, and thinking about or contemplating and attempting suicide.(4, 9)

The *Writing Themselves In 4: A national survey of health and wellbeing among LGBTQA+ young people in Australia* report found that more than half (60.2%) of participants at Australian secondary schools felt unsafe or uncomfortable at school due to their sexuality or gender identity in the past 12 months.(8) Further, over 50% of participants had experienced verbal harassment based on their sexuality or gender identity.(8) Almost three-fifths (58.9%) of all participants had seriously considered attempting suicide in the previous 12 months, and 59.1% of those were aged 16-17. This is more than five times that observed within studies of the general population aged 16-17.(8)

Teachers who provide support to gender diverse students who are the victims of bullying will be at risk of losing their job under the Bill. It is critical that teachers are able to continue responding to the needs of all students regarding matters of safety, physical and mental health and social wellbeing.

Schools can lessen the negative experiences of intersex and/or gender diverse students by creating safe, supportive and responsive environments that recognise student diversity.(7, 8, 10) A safe school environment can be achieved through implementation of comprehensive sexuality education, recognition of diversity, and development of inclusive curricula that enables students to feel valued and safe.(11)

Case study: Beyond the Nuts and Bolts

In 2020, a teacher from regional NSW completed Family Planning NSW's four-session *Beyond the Nuts and Bolts* teacher training course in reproductive and sexuality education.

Several months later, the teacher contacted Family Planning NSW for help with additional support for a student who identified as gender diverse. The teacher and parents of the student were concerned that the student was at increased risk of isolation and self-harm should they not be supported by their peers, school and community.

The teacher and student's parents wanted to ensure that the student was able to access education in a safe, secure and supportive way, as is the right of every child and young person. The teacher wanted to discuss with Family Planning NSW the best way to provide sexuality education in an inclusive and supportive fashion. Following the discussion with Family Planning NSW, the teacher came up with a well-considered plan to address the young person's educational and developmental

needs. It meant some extra work as an educator, but they could see that it would be worthwhile to ensure their student felt supported.

This case study reflects the commitment of teachers to address and support the needs of all students. Even more importantly, it demonstrates what can be achieved when educators and parents work together with the wellbeing of students firmly in mind. With a commitment to communication, fairness and effective educational practice, the needs of all students can be met within the school community.

3. The Bill prohibits the teaching of essential education on bodies, healthy relationships and sexuality

The Bill prohibits teaching about 'ideological' concepts, of which comprehensive sexuality education may be considered to be. In essence, the Bill will have the effect of 'gagging' education on contemporary topics, depriving students of essential education on bodies, healthy relationships and sexuality.

Comprehensive sexuality education is an evidence-based, age appropriate and culturally relevant approach to teaching and learning about sexuality and relationships, inclusive of the cognitive, emotional, physical and social aspects they encompass. Providing timely, holistic, age-appropriate and evidence-based comprehensive sexuality education promotes students' wellbeing, emotional development and safety.(12-14)

Comprehensive sexuality education includes provision of education on the following topics to support knowledge and skill development:

- the human body, development and integrity
- puberty and body image
- respectful relationships
- fertility, pregnancy, pregnancy options and contraception
- sexual health and sexual behaviour
- gender and sexual diversity
- the influence of technology and media
- health literacy and decision making

As an early intervention strategy, comprehensive sexuality education ensures not only the reproductive and sexual health and wellbeing of students, but supports students to develop lifelong protective skills.(13, 15) Comprehensive sexuality education supports students to create healthy relationships throughout all stages of their lives and develop skills to ensure their safety.(13, 15) Further, comprehensive sexuality education improves student health literacy and contributes to reduced sexual risk taking, including delayed initiation of sexual intercourse, increased use of contraception and condoms, and reduced engagement in gender-based violence.(13-15)

From a safety perspective, it is important that all students learn skills that enable them to develop, promote and preserve healthy interpersonal relationships.(16) Comprehensive sexuality education seeks to empower students, particularly young girls and other vulnerable and marginalised students, to identify signs of healthy and unhealthy relationships and make informed decisions about how to promote individual safety.(14) Comprehensive sexuality education has been found to be a protective factor and reduces risk of family, domestic and sexual violence in later life.(14, 16)

If comprehensive sexuality education is not taught, because parents remove their children from school lessons, or because of teachers' fears of being seen to promote views that may be considered as 'ideological', a large number of students will not reap its benefits and miss out on essential education.

Consistent implementation of comprehensive sexuality education is needed to ensure all student needs are met, including students belonging to diverse groups such as young people with disability, who are sexuality and/or gender diverse and young people from culturally diverse backgrounds.

4. The Bill privileges the beliefs of parents over the education and developmental needs of students

Family Planning NSW recognises that parents want the very best for their children. However, parents are not the only adults that are able to support their children to understand and develop their personal identity in relation to gender and sexuality.

The Bill allows parents to remove a child from any lesson at school in which the lesson contradicts their political, social or personal values. This will deprive children from hearing differing views about important topics including climate change, the experiences of people with different religious beliefs and cultural practices, and comprehensive sexuality education.

Effectively, the Bill will limit discussions around these important topics as teachers may avoid discussing or teaching contemporary topics for fear of having a complaint brought by a parent who has differing views. Should teachers discuss, or respond to student questions on such topics, they will be at risk of losing their accreditation.

Education should not be based solely on the beliefs of parents, over the education and developmental needs of students. All students, especially those who are from vulnerable and marginalised backgrounds have a right to evidence-based information and education as per the Universal Declaration of Human Rights.(17)

Further, the Bill undermines the integrity of the scope of the existing curriculum, which has been developed in consultation with experts in the fields of education as well as subject matter experts in each Key Learning Area to meet the current and future learning needs of children and young people.

Maximising educational attainment and reproductive and sexual health outcomes for all young people requires a holistic approach to education that is inclusive of the provision of information about healthy relationships, puberty, consent, gender and sexuality. Supporting teachers to facilitate discussions about these essential topics should be a government priority to ensure the health, education and wellbeing of all young people.

Conclusion

We strongly urge the NSW Parliament to not pass the Education Legislation Amendment (Parental Rights) Bill 2020. The Bill is unnecessary and widely unworkable. Further, it has significant negative implications for some of NSW's most vulnerable and marginalised students, including limiting access to essential education, creating exclusionary learning environments, perpetuating instances of bullying and peer victimisation and reducing the level of support that teachers are able to provide to students who are intersex and/or gender diverse. Every student, no matter their gender, sexuality or background, deserves a quality education in a school where they feel, safe, valued and included.

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