

Submission
No 43

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

Organisation: Australian Professional Association for Trans Health(AusPATH)
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AusPATH submission to:

Portfolio Committee No. 3 - Education
Upper House Committees (Legislative Council)
Parliament of New South Wales

Regarding:

Education Legislation Amendment (Parental
Rights) Bill 2020

February 2021

Via email: PortfolioCommittee3@parliament.nsw.gov.au

About AusPATH

The Australian Professional Association for Trans Health (**AusPATH**) was established in 2009 and is Australia's peak body for clinicians, professionals and researchers involved in the health, rights and well-being of all trans people in Australia, including women, men, non-binary people and those who are gender diverse. The AusPATH membership comprises more than 250 experienced professionals working across Australia.

AusPATH uses *trans*¹ as an umbrella term that describes a population of people whose gender is different to what was presumed for them at birth. By this we mean all people of diverse gender experiences including women and men who are trans, and all non-binary people.

Contact

Dr Fiona Bisshop

President

AusPATH acknowledges the Traditional Owners and Custodians of the lands and waters upon which we operate throughout Australia, we pay our respects to Elders, past, present and emerging, and honour the unbroken connection and ancient expertise First Nations peoples hold on country, across water systems, and the living environment.

AusPATH reminds readers that we always are, and always will be, on unceded Aboriginal and Torres Strait Islander land. We also acknowledge all First Nations reading this submission, particularly Sistergirls, Brotherboys and all other trans and gender diverse First Nations people.

Executive Summary

AusPATH unequivocally opposes the *Education Legislation Amendment (Parental Rights) Bill 2020*. This Bill is harmful and unnecessary, and AusPATH rejects it in the strongest terms.

This Bill poses a threat to the right of every young person in NSW to a safe school environment, and to receive an adequate and fulfilling education.

This Bill wilfully mischaracterises the trans experience by using a definition of ‘gender fluidity’.¹ This language suggests incorrectly that the genders of trans people are entirely changeable and un-fixed. If given effect, the Bill will promote the invisibility and erasure of, and increased harm to a significant proportion of the NSW school community.

AusPATH endorses submissions made by Parents for Trans Youth Equity, ACON, Equality Australia and Intersex Human Rights Australia. Some of the reasons we believe this Bill is harmful are outlined in this submission.

The key topics include:

1. **Gender diversity is a normal and ancient experience of human identity.** This Bill ignores that trans people have lived across every human civilisation since the dawn of time and can be traced throughout history, trans people cannot be erased from history.
2. **Schools should be inclusive and supportive environments for all young people, including those who are trans.** Schools and other educational environments are where young people spend most of their time, these settings are already unsafe for LGBTIQ+ young people and particularly for trans young people. Discrimination, stigma and unsafe environments contribute to poorer mental health and wellbeing, as well as academic outcomes.
3. **Parents should not be, and do not want to be, solely responsible for educating their children about gender.** Parents already report having an insufficient understanding about gender, let alone the trans experience. By shifting the onus for education on gender to parents rather than allowing schools to be a source of knowledge, this Bill will have a directly negative impact on trans young people. This Bill fails to recognise that trans people have always existed in every area of life, including in education settings.

Recommendations

AusPATH recommends this Bill is rejected by the Portfolio Committee No. 3 – Education and the NSW Government in its entirety.

Dear Committee

AusPATH welcomes the invitation to provide this submission on the *Education Legislation Amendment (Parental Rights) Bill 2020*, introduced on 5 August 2020 by the Honourable Mark Latham MLC and referred to the Legislative Council Portfolio Committee No. 3 - Education, also chaired by Mr Latham.

Introduction

The Bill states that parents are responsible for “teaching and forming” core values in their children, including about what the Bill defines as “gender fluidity”. However, an individual’s gender is part of their core identity, established early in life, and should not be suppressed because of their parents’ beliefs. **Instead, young people, their families and school communities should have access to evidence-based information on gender diversity in formal settings including at school.**

The Bill wilfully misrepresents the trans experience by positioning the genders of trans people as entirely fluid, shiftable or uncertain. Indeed, trans women, trans men and non-binary people hold a strong clarity about their gender, including amongst those non-binary people who are gender fluid.² All trans people, including young people, engage in a personal exploration of their inner gendered selves before ever revealing who they are to those around them. This Bill will force trans children to reject or deny their experience, or stop attending school, to the great detriment of their wellbeing and to the great detriment of their local communities.

Gender identity change efforts, including those promoted under the guise of this Bill, have no basis in evidence, do not work and only cause harm. Diversity of the human experience is essential, normal and ancient.

Further, any parliamentary debate about this Bill will likely exacerbate the already harmful, inaccurate and relentless media disinformation campaign about trans people in Australia, particularly trans children and adolescents, that started in earnest in 2019 and continues today.

This concerted campaign is detailed in submissions made to the Commonwealth Senate Inquiry into media diversity, including in a personal submission made by Dr Michelle Telfer, Head of the Royal Children’s Hospital Gender Service in Melbourne and former AusPATH President.

Dr Telfer states that “[media reporting about trans children] created a narrative that did not reflect reality. In my opinion, it was not news, it was disinformation. Its effect was to create

fear and anxiety, to exacerbate the stigma, discrimination and prejudice that exists against trans children and young people in our society”.³

Public debate about trans issues rarely includes actual trans people and is often a distortion of reality that is felt profoundly by the trans community across Australia, a population of people comprising some of the most vulnerable in this country.

The wilful misrepresentation of the trans experience in the media, promoted by some members of the NSW parliament, has been further compounded by the COVID-19 crisis. A large national survey of over 1000 trans Australians revealed that during the first three months of the COVID-19 pandemic reaching Australia, trans people were experiencing severe distress, loneliness, family violence, suicidality, and self-harm at rates several-fold that of the general population and considerably higher than rates prior to the pandemic.⁴

During a time when the global human community is united in fear, loss and uncertainty, this Bill and the continued focus on positioning trans people as a threat to society and a problem to be fixed contributes, not only, to the well-established disparities of health and wellbeing outcomes in this population group^{5,6}, but actively rejects the Australian values of a ‘fair go’. equality of opportunity for all people and respect for the freedom and dignity of the individual.⁷

The impact of this Bill on trans young people and their families

This Bill will have seriously adverse effects upon young trans students, a population of young people who already report very high rates of suicidality and self-harm, and are at significantly elevated risk of bullying and harassment in the school environment. This Bill seeks to erase, invisibilise and stigmatise children and adolescents who unambiguously already exist within the NSW education system, many of whom are supported and cherished by their families, friends, teachers and school communities.

This Bill will harm trans children by seeking to invalidate their existence, and by punishing their teachers and school communities if they acknowledge and affirm the gender of their trans students. This Bill ignores that trans people have lived across every human civilisation since the dawn of time and can be traced throughout history, trans people will not be erased from history.

We remind the Committee of the 1988 introduction of Section 28 to the Local Government Act in the UK, a statute that came into effect as the HIV pandemic was taking hold and remained in place for 15 years⁸. As that Bill was introduced, Prime Minister Thatcher said at the time that young people were “being taught that they have an inalienable right to be gay”, and instead needed to be “taught to respect traditional moral values.”

Overnight, LGBTQ community support groups were forced to disband, literature was taken off the shelves in libraries and any positive depictions of LGBTQ life was wiped from schools. LGBTQ young people growing up through 1988-2003 were erased and isolated, they weren't allowed to be themselves, had no support and their teachers were punished if they affirmed them. The effects of Section 28 lasted – and will continue to last – for generations.

A 2019 literature review found that older LGBTQ people in the UK were more likely to have a history of mental ill health, more likely to have been diagnosed with depression and had more concerns about their mental health in the future, most studies reviewed suggested a link between older LGBT people and a higher risk of mental health issues⁹.

In 2021, NSW must do better for trans young people, this Bill would take this state to 1988 with a likely devastating and generational impact, as it has for those LGBTQ young people who suffered through Section 28.

The trans experience is not new. First Nations cultures have always recognised concepts of gender that expand beyond Western understanding binary cisgender¹ experiences. Trans people have been, and continue to be part of every First Nations population around the world, including in Australia. AusPATH acknowledges the important contributions made by Sistergirls, Brotherboys and First Nations gender diverse people since the dawn of time.¹⁰

This Bill will harm families. Although claiming the protection of parental primacy at its core, this Bill ignores parents who have trans children and privileges parents who may not understand, or have access to information about the trans experience. This Bill suggests that the right to an education extends only to those students the NSW Government considers eligible.

This Bill seeks to prevent school staff from offering trans young people and their families support or referrals to appropriate gender-affirming practitioners or counsellors. It will force and encourage schools to discriminate on the basis of gender identity, a protected attribute under the Commonwealth Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013.¹¹

This Bill will allow discrimination, including bullying and harassment, to occur within the curriculum, the classroom, and the playground.

This Bill ignores that trans young people, trans teachers, trans parents and parents of trans children already exist and make important contributions to school cultures and environments. **This Bill fails to recognise that trans people have always existed in every area of life, including in education settings.**

The Bill also fallaciously mischaracterises intersex people as being disordered, an extremely harmful narrative that AusPATH explicitly rejects. AusPATH endorses submissions made to the Committee by intersex-led organisations.

The impact of school environments on LGBTIQ+ young people

Schools and other educational environments are where young people spend most of their time, these settings are already unsafe for LGBTQA+ young people and particularly for trans young people. Discrimination, stigma and unsafe environments contribute to poorer mental health and wellbeing, as well as academic outcomes.

The recent *Writing Themselves In 4* study⁵ reported that within the prior 12 months, 64.3% of young trans women, 54.4% of young trans men and 44.6% of young non-binary people had missed at least a day attending their educational setting due to feeling unsafe or uncomfortable due to gender.

In the prior 12 months, 28.1% of LGBTQA+ young people experienced verbal harassment based on their sexuality or gender identity, and 6.7% experienced physical harassment or assault based on their sexuality or gender identity.⁵

The *Trans Pathways* survey (a national study with trans young people aged 14-25, N=859) found that 78.9% of trans young people experienced discrimination at school, university or TAFE, and these young people were almost four times more likely to have ever attempted suicide compared to those who reported an affirming education experience.¹²

These frequencies, outlined above, are alarming statistics that would be likely exacerbated if this Bill is introduced. All young people need and deserve a safe and affirming education, including trans young people.

The right to a safe and inclusive school environment

Every child has the right to attend school in an environment where they are valued, have a sense of belonging, feel seen, are supported by their teachers, and can learn with dignity. As do the many thousands of teachers, support staff and school communities already providing essential care and support for their trans students.

This Bill will allow parents to withdraw their children from lessons if there is disagreement on the importance and validity of LGBTQA+ people in society. Schools are a unique setting for trans young people (and LGBTQA+ children more broadly) to hear about diverse experiences, and gain exposure to diverse identities.

This highlight to young people that they are not alone in any feelings that they have regarding their identity, and allows trans young people to feel that they belong, rather than feeling othered or abnormal.

Trans young people should know that they belong, and have a place, in every school community in NSW.

Being included and reflected in education settings helps reduce stigma and benefits mental health and wellbeing. Negating gender diversity is a deliberate attempt to erase the existence of trans young people and does not adequately balance the needs of parents, students and the community.

Comprehensive education on sexual health (inclusive of diverse genders and sexualities) is an effective early intervention strategy for promoting sexual health and wellbeing and positive, respectful relationships in all young people¹³. In addition, when LGBTIQ+ young people feel included and connected to their school environment they are more likely to have higher academic achievements, and meaningful relationships and engagements in school.¹⁴

The Australian Curriculum, Assessment and Reporting Authority (ACARA), which administers the national school curriculum currently already includes specific modules that highlight the importance of the inclusive and safe school environments for diverse students, and the critical role schools play in delivering sexuality (and gender) education.

The Royal Commission into Institutional Responses to Child Sexual Abuse additionally recommended respectful relationships and sexuality education be delivered within existing school curricula.

Parents should not be solely responsible for educating their child about gender

Shifting the onus for education on gender to parents, rather than allowing schools to be a source of knowledge, will have a negative impact on trans young people. Even supportive parents of trans young people report being unaware of how to support their trans child, particularly when they first discover their child is trans.^{8,12,15}

Parents cannot be the educator on gender diversity as this Bill proposes, particularly against a backdrop of such deliberate and harmful disinformation campaigns proliferating the media including by some representatives of the NSW Parliament.

Parents, instead of home-schooling, send their children to school so they can have access to a broad range of ideas and experiences. Many parents publicly shared their struggles of attempting to home-school during COVID-19 lock down periods, parents should not and do

not want to be solely responsible for educating their children about society and culture, including about gender, sexuality and lived experiences that differ from their own.

We ask that the Committee to reject this Bill in its entirety. We are available and would welcome to opportunity to appear as a witness.

Sincerely,

Dr Fiona Bisshop
President, AusPATH

Mr Teddy Cook
Vice President, AusPATH

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