

**Submission
No 51**

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

Organisation: Council of Catholic School Parents NSW/ACT

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LEADERSHIP • ADVOCACY • SUPPORT

Council of Catholic School Parents NSW/ACT

Submission to the inquiry of the NSW Legislative Council's
Portfolio Committee No. 3 – Education on the
Education Legislation Amendment (Parental Rights) Bill 2020

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1.0 Preamble

- 1.1 This submission has been prepared by the Council of Catholic School Parents NSW/ACT (CCSP) on behalf of the parents of more than 255,000 students in approximately 600 Catholic schools in NSW.
- 1.2 CCSP welcomes the opportunity to provide the NSW Legislative Council's Portfolio Committee No. 3 – Education with feedback on the *Education Legislation Amendment (Parental Rights) Bill 2020* on behalf of the more than 150,000 families who choose to send one or more of their children to a NSW Catholic school.
- 1.3 CCSP is an independent association and the officially recognised body representing the interests of parents and carers of children and young people in NSW Catholic schools. The work of the Council is guided by the principles of parental choice, equity, and social justice. CCSP provides leadership, advocacy and support to the parents of children in all NSW Catholic schools, both systemic and non-systemic.
- 1.4 'Parents,' as the term is used in this submission, is intended to cover both biological and adoptive parents and other carers who are the primary carers of children and young people, including grandparents and recognised kinship carers.
- 1.5 This submission provides CCSP's feedback to the Bill.

2.0 Feedback

2.1 On the Overview of the Bill

- 2.1.1 CCSP appreciates the explanatory notes provided with the Bill and will refer to their contents, as required, when providing feedback in the sections that follow.

2.2 On the Object of the Bill...

- 2.2.1 CCSP applauds the Bill's intent to protect the place of parents as the first educators of their children. This is a foundational principle of CCSP. All parents are the first educators of their children, not just parents in Catholic families and not just the parents of children in Catholic schools. CCSP supports legislation with the intention of ensuring that schools do not usurp the role of parents.
- 2.2.2 That the legislative amendments seek "to provide that schools must recognise that parents are primarily responsible for the development and formation of moral and ethical standards and social and political values in their children, including an understanding of personal identity and questions of gender and sexuality" is commendable and enjoys CCSP's support.

- 2.2.3 CCSP also supports the notion that teaching in government schools in relation to core values is to be strictly non-ideological and should not advocate or promote dogmatic or polemical ideology that is inconsistent with parents' core values. Parents of students in Catholic schools choose a Catholic education for their child. They do so in the knowledge that their child's teaching and learning will be grounded in Catholic beliefs and principles and will include religious education. The activity of the Catholic school in this respect is not in conflict with the values held by the parents, but in concert with them. Parents of children in government and independent schools also deserve to have their rights as the first educators of their children respected.
- 2.2.4 That the Bill's purpose extends to a prohibition on "schools, teachers, and training courses from teaching gender fluidity, and for other purposes" enjoys CCSP's to the extent that gender fluidity is an ideology as defined in the Bill.

2.3 On Schedule 1 Amendment of Education Act 1990 No 8

- 2.3.1 CCSP accepts the proposed definitions as provided at [1].
- 2.3.2 The definition of 'gender fluidity' as provided in the Bill, identifies it as an ideology. As such, its teaching encroaches upon the rights of parents to be their children's first educators in matters of parental primacy, including gender and sexuality. CCSP believes any argument that attempts to separate completely one's gender from one's biological sex is inherently flawed. CCSP acknowledges that the term 'gender fluidity' enjoys somewhat common usage, without users necessarily appreciating its ideological basis. CCSP appreciates the clarity provided by the Bill's definition of the term and consequently, supports its inclusion. Because the Bill clearly identifies the ideological nature of gender fluidity, it enjoys CCSP's support. Given this clarity, CCSP also notes that the Bill does not, therefore preclude the teaching of gender and sexuality by schools in a neutral way that does not undermine the role of parents as their children's first educators in matters of parental primacy.
- 2.3.3 Likewise, the definition of 'matters of parental primacy' is not contested by CCSP, particularly as it serves to protect and promote the place of parents as first educators of their children.
- 2.3.4 CCSP supports the insertion proposed at [2].
- 2.3.5 CCSP supports the insertion proposed at [3]. This express recognition of the principle that parents are primarily responsible for the teaching of matters of parental primacy is valued and appreciated.
- 2.3.6 CCSP supports the insertion proposed at [4]. CCSP is particularly supportive of the reference to Article 18(4) of the International Covenant on Civil and Political Rights, which respects parents' liberty

to “ensure the religious and moral education of their children in conformity with their own convictions.” The teaching of any ideology should be treated in the same way as the teaching of dogmatic and polemical theology. Any ideological teaching of any kind in any school should only proceed if it is supported by the parents.

- 2.3.7 CCSP supports the insertion proposed at [5].
- 2.3.8 CCSP supports the insertion proposed at [6], [7] and [8]. To clarify, CCSP asserts that gender fluidity, as an ideology, is not to be taught to students at any stage between Kindergarten and Year 12. Parents insist that their children are provided an education in a safe and supportive environment in which parents’ core values are respected. CCSP believes that this is what this Bill seeks to achieve. CCSP agrees that gender and sexuality are matters of parental primacy and that neither education systems, nor schools, nor individual teachers should be given licence to usurp parents’ role as first educators by teaching an ideology of gender fluidity.
- 2.3.9 CCSP acknowledges that schools have a role to play in providing instruction on gender and sexuality, but that this is to be delivered in a neutral way that is not in conflict with parents’ core values. CCSP understands that the Bill is not proposing a total prohibition of the teaching of gender and sexuality, but that it is proposing a total prohibition on the teaching of gender fluidity as a particular ideology. This prohibition on the teaching of gender fluidity as an ideology, which CCSP supports, does not preclude a school from teaching about gender in a neutral or objective way. By way of analogy, government schools teach about religion by means of general inquiry without promoting a particular religion. This has been the case since 1880. In the same way, schools can teach about gender without promoting gender fluidity.
- 2.3.10 Because gender and sexuality can be taught by schools in a way that is consistent with parents’ core values, a prohibition on the teaching of gender fluidity does not lead to gaps in children’s and young people’s education – gaps which might otherwise be filled by those of nefarious intent and who care little for the values and convictions of the students’ parents. Rather, this Bill provides for a curriculum that is age and stage appropriate for all students that does not undermine the role of parents as their children’s first educators. Because the topics of gender, sexuality and identity feature in the contemporary social landscape, they cannot simply be ignored by schools. CCSP recognises that this Bill accommodates the teaching of these topics in a neutral and non-ideological way, which CCSP supports. What CCSP does not support is any approach that sees such issues explored through the ideological lens of gender fluidity. This Bill clearly defines gender fluidity as an ideology and as such, it is inappropriate. When the ideology of gender fluidity is taught, there is a high risk that the incidence of incongruence of biological sex and socially constructed gender is exaggerated. This is not helpful to children and young

people in their formative years, particularly when it conflicts with their parents' core values. That said, if an individual does experience such incongruence, it is best dealt with from a position of understanding and compassion rather than one of ignorance or ideology.

- 2.3.11 CCSP notes that the explanatory notes of the Bill refer here to senior students as “candidates” rather than “children” and accepts that this is probably to cater for the fact that some students reach the age of majority while still at school. CCSP would like to remind the drafters of the Bill, however, that they are still our children and we remain their parents.
- 2.3.12 Consistent with the comment at 2.3.8 above, CCSP supports the two insertions proposed at [9].
- 2.3.13 CCSP supports the insertions proposed at [10]. CCSP agrees that teaching in government schools should be non-ideological and notes the distinction made between government schools and non-government schools regarding the provision of non-ideological instruction in matters of parental primacy. CCSP notes and commends the clarification provided on the topic of special religious education in government schools.
- 2.3.14 In respect of [10] also, CCSP appreciates the Bill's thoroughness and desire for consistency in its inclusion of 17C. The Bill's intention to avoid any doubt in the construction of proposed sections 17A and 17B is noted. However, CCSP recommends the inclusion of an additional explanatory note to advise that nothing in this Bill prevents a school from providing support to a student with a diagnosis of gender dysphoria. Consistent with the comments above, CCSP does not support the advocacy of gender fluidity as an ideology but does recognise that schools may have a part to play in providing support to vulnerable students. CCSP cautions that a misconstruction of this provision may lead to vulnerable students being denied appropriate levels of pastoral care. In other words, while the prohibition on the teaching of gender fluidity is supported because such teaching is ideological, which is inappropriate, this should not exclude the provision of pastoral support to students in crisis. CCSP is keen to add that such pastoral support should only be provided to individual students by the school with the informed consent of each student's parents, unless there is a compelling (child protection) reason for the student's parents not to be informed. CCSP does not believe the intention of the legislative amendments is to alienate any young person at a vulnerable time in their life but fears that this may be the result if further clarification is not provided in respect of 17C. A student in crisis needs to know about the supports and services available to them. Again, this is to be provided by the school only where appropriate and in a way that does not conflict with the core values of the student's parents.

- 2.3.15 While 17D applies to government schools specifically in respect of matters of parental primacy, CCSP notes that section 33 of the *Education Act 1990* has always recognised parents' right to withdraw their children on the grounds of an objection to the teaching of general religious education or special religious education. 17D simply proposes that this long-held parental right extends to ideology, not just religion, but on all matters of parental primacy. Having said that, CCSP believes that the withdrawal of a child is a last resort and that communication and consultation between parents and school personnel should be sufficiently effective to mitigate against this drastic measure being taken. If an effective partnership has been established, such conflicts can be addressed early and dealt with in the best interests of the child's education and wellbeing.
- 2.3.16 CCSP wishes to advise that there is overwhelming support for 17E. As the first educators of their children, parents deserve to be fully informed in advance about what their child is to be taught at school. While this provision applies specifically to government schools, it is appropriate for this to apply to all schools. As already mentioned, parents of children in Catholic schools choose a Catholic school knowing that the instruction provided will not only be in keeping with the curriculum requirements set by the statutory authority but will be in alignment with Catholic beliefs and practices. Even so, it is prudent for schools to both notify parents of the content to be taught by way of a summary at the beginning of the academic year, and, to consult with parents about any instruction to be given in matters of parental primacy or teaching on core values. This material should be provided in a way that enables parents to clearly understand what is to be taught. In addition to helping to identify potentially contentious topics in advance, the provision of a summary of content also serves to facilitate parent engagement in children's learning. In general, the provision in the Bill that schools consult parents on significant issues is, to a large extent, already observed in the NSW Catholic school sector with parents enjoying open and consultative relationships with Catholic school leaders, particularly in respect of matters of parental primacy, including gender and sexuality.
- 2.3.17 CCSP supports the insertion proposed at [11].
- 2.3.18 CCSP supports the insertion proposed at [12]. In terms of the preparation of resources for parents, CCSP offers to share its expertise with the NSW Education Standards Authority. As required, CCSP is willing and able to work collaboratively with the parent bodies from the government and independent education sectors in preparing resources for schools which set out the matters of parental primacy that are part of the syllabus.
- 2.3.19 CCSP supports the insertions proposed at [13].
- 2.3.20 CCSP supports the insertion proposed at [14].

2.3.21 CCSP supports the insertion proposed at [15].

2.4 On Schedule 2 Amendment of Education Standards Authority Act 2013 No 89

2.4.1 In respect of [1], refer to 2.3.1 above.

2.4.2 In respect of the insertion at [2], CCSP supports the sections 11(1)(d)(i) to 11(1)(d)(iv) as they apply to sections 11(1)(d)(v) and 11(1)(d)(vi). CCSP notes that [2] in Schedule 2 is consistent with the proposed amendments to the *Education Act 1990* as listed in Schedule 1.

2.5 On Schedule 3 Amendment of Teacher Accreditation Act 2004 No 65

2.5.1 In respect of [1], refer to 2.3.1 above.

2.5.2 Consistent with 2.4.2 above, CCSP supports the insertion at [2] in respect of parts (a) and (b). CCSP notes here the typographical error in the drafting: s21(1)(g) on page 8 should read s20(1)(g).

2.5.3 Further, in respect of [2], CCSP is again willing and able to share its expertise with the NSW Education Standards Authority in the development of teacher education and professional development courses that, in accordance with the professional teaching standards, recognise that parents are primarily responsible for the education, development and formation of their children in matters of parental primacy.

2.5.4 CCSP supports the insertion proposed at [3].

2.6 Some further comments:

2.6.1 CCSP agrees that parents are primarily responsible for the care and guidance of their children on matters concerning a student's gender and sexuality. As parents are the first educators of their children, schools must not attempt to usurp, replace, or undermine parents in matters of gender and sexuality.

2.6.2 Whether parents have enough say about what is taught in the classroom is complicated. At the local level, it depends on the relationship the school has with families. Typically, in the Catholic school sector, there is consultation between the school and the home, particularly in matters of parental primacy and core values, including the topics of gender and sexuality. However, this is not necessarily universal across the Catholic sector. It is equally or even more likely that a range of experience exists across the government and independent school sectors.

- 2.6.3 At the level of the NSW curriculum, parents have, to date, been afforded a say in the development of syllabuses, largely through representation by CCSP. Until 2020, parent bodies had a seat at the table when the NSW Education Standards Authority (NESA) developed new teaching and learning syllabuses from Kindergarten to Year 12. Now, however, parents and carers risk being disenfranchised. In response to the NSW Curriculum Review, NESA has been charged with overhauling all its syllabuses in the next few years. In order to meet this ambitious rollout timeline, NESA has opted to curtail its previous consultative processes and rely more heavily on the input of subject matter experts from the three education sector peak bodies rather than key stakeholders such as parents. So, while the experience of parents has generally been that they do have enough say in what is taught in the classroom, there is legitimate concern that this may be about to undergo a detrimental change. CCSP recommends that appropriate structure be established to ensure that the parents of children in all schools continue to have a voice. In any case, the area of syllabus development and related support documents in one which CCSP will monitor closely lest there be any materials developed that are inappropriate or counter to Catholic teachings.
- 2.6.4 As of the end of 2020, CCSP is no longer recognised by the NSW Education Standards Authority as a provider of accredited teacher professional development. This is because the status of all providers, except the peak body in each of the three education sectors (Department of Education, Catholic Schools NSW, and the Association of Independent Schools NSW), was downgraded. CCSP is now recognised as a provider of Elective professional development (previously referred to as 'teacher identified'), which does not carry the same status as NESA accredited) professional development. This move by NESA was in response to the provision of professional development getting out of control –there were a number of providers who were pushing their own particular (and unhelpful) ideological agenda and passing it off as professional development for teachers and school staff. While CCSP laments the fact that it has now lost its status as a NESA accredited provider of professional development, it supports the move to restore integrity to the field of teacher professional learning in NSW. It is hoped that a new professional development regime will be introduced in which greater scrutiny is applied to all potential providers of NESA accredited professional development and that CCSP will once again be recognised as a provider of NESA accredited professional development for teachers and school staff.
- 2.6.5 On communication with schools, parents and carers of children and young people typically enjoy open lines of communication with schools in the Catholic sector. Schools and systems have their own learning management systems which generally include a parent portal and other means of delivering information online. Communication was

enhanced during the COVID-19 pandemic, with schools and systems making extra efforts to provide continuity of learning while at the same time prioritising the health and wellbeing of students and their families.

3.0 Conclusion

- 3.1 CCSP agrees that parents are primarily responsible for the care and guidance of their children on matters concerning a student's gender and sexuality. Because parents are the first educators of their children, schools must not attempt to usurp, replace, or undermine parents in matters of gender and sexuality. Given this Bill seeks to protect the place of parents as their children's first educators, it enjoys CCSP's support.
- 3.2 Given that there may be amendments made to the Bill as currently drafted, CCSP reserves the right to comment further as the Bill evolves.
- 3.3 CCSP is happy to elaborate on any points contained herein and looks forward to further consultation with the Committee as it deliberates.
- 3.4 Once again, CCSP is grateful for the opportunity to provide feedback on the Bill and extends its best wishes to those entrusted with navigating its passage through the NSW Parliament into law.