

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

Organisation: NSW Gay and Lesbian Rights Lobby

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

February 2021



Gay & Lesbian Rights Lobby

About the NSW Gay and Lesbian Rights Lobby

The New South Wales (NSW) Gay and Lesbian Rights Lobby has a proud history. We are the peak organisation representing the rights of gay and lesbian people. We advocate on behalf of the gay and lesbian community and their families, as well as joining advocacy efforts of our partners and allies across the LGBTIQ community.

We work closely with bisexual, transgender, and intersex organisations, and all Members of Parliament to advance the rights of our communities in NSW. The GLRL has been in continuous existence since 1988, but the origins of our organisation date back to the 1970s and the efforts to decriminalise homosexual acts and to provide phone counseling support to community members impacted by bigotry.

The GLRL has established strong ties to the community, consulting with our members and hearing their stories, many of them describing incidents of violence, discrimination, and hatred. In the past 31 years, our community-based organisation has been composed of volunteers with lived experience of this bigotry. We draw on our history of bearing witness to those stories in making this report.

A full list of our advocacy efforts is published on our website and in our annual reports.

Any questions are welcome

Stay proud,

Co-Convenors,

NSW Gay and Lesbian Rights Lobby,

Audrey Marsh

Jack Whitney

Joint Public Statement

We represent a vast group of community and civil society partners and leaders in New South Wales (NSW) who place on the public record our strongest opposition to NSW One Nation's Education Legislation Amendment (Parental Rights) Bill 2020. This legislation, introduced to the NSW Parliament by One Nation's Mark Latham, aims to outlaw the teaching of gender diversity and the acknowledgement of trans and gender-diverse students and their families and seeks to strip professional accreditation from any teachers and school staff breaking such a law.



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Joint Public Statement reads:

This Bill is a serious and blatant attack on young people, their families, teachers, school staff, and our communities. The Bill erases the very existence of trans children, encourages direct transphobia, and positions intersex children as disordered in NSW. It deliberately targets trans and gender diverse kids within our classrooms during some of the most formative times in their lives. Despite the communities' many strengths, we know that the heavy burden of discrimination and stigma experienced by the trans and gender diverse community will be increased substantially with such a Bill in NSW while doing nothing to reduce discrimination.

All students and their families across NSW must feel safe and supported at school. All teachers must feel safe and supported to practice professionally and personally. There remains a vital need for work to continue to ensure the inclusion and safety of LGBTIQ+ young people in our school environments. The harmful and dangerous One Nation Education Legislation Amendment (Parental Rights) Bill 2020 does nothing but undermine the credibility of state government attempts to reduce bullying in our schools, to empower teachers and school staff on the front line, and to find a way forward in building more resilient school communities.

Discrimination, no matter the grounds, has harmful personal and economic effects on people. Successive national, and local level studies and a public non-binding postal survey have documented the burden associated with this discrimination, which exerts a significant toll on the health and wellbeing of LGBTIQ+ people.

Discrimination should not remain pervasive in Australia. Attacks on young people, teachers, and school staff who support them in school settings have been based on scare campaigns and misleading information. Despite the alarmist headlines, we know that there is broad community support for the reduction of state sanctioned discrimination and the celebration of diversity.

We believe that in modern Australia, there is no place for putting teachers at risk of losing their right to work as a teacher, no place for prohibiting schools and school staff from teaching diversity, and no place for shaming, stigmatising, and silencing LGBTIQ+ children. **We call on the NSW Parliament to reject this Bill and caution them against introducing legislation that would hinder the personal expression of young people.** We also caution the NSW Parliament against introducing a Bill that would not be compatible with existing anti-discrimination protections. Fair access to quality education no matter what a person's identity or circumstance must come first. This Bill does the exact opposite.

Context of this Inquiry

This Inquiry forms part of a number of Bills and reviews recently introduced by Mark Latham MLC which concern the GLRL - namely the Anti-Discrimination Amendment (Complaint Handling) Bill 2020, introduced in February 2020, the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020, and the Review of the New South Wales School Curriculum chaired by Mr Latham. If all elements of this broader package were implemented it would:

1. Amend the operation of the Anti-Discrimination Board, introducing impractical decision-making requirements for the President and limiting the scope of matters which can be considered by the Board.
2. Prohibit educators and counselors from educating and talking about trans and gender diverse people.
3. Impacts the wellbeing of all students where social and emotional development supports anti-bullying and harassment within schools.
4. Require schools to take a 'both sides' approach to teaching issues such as vaccination, World War 2, climate change, or evolution.
5. Threatens the employment of educators or counsellors who affirm trans and gender diverse young people.
6. Allow bodies that define themselves as religious to challenge government programs and policies.
7. Limit the ability of government and non-government employers to respond to religiously-motivated behaviour from an employee which vilifies others.
8. Allow bodies that define themselves as religious to discriminate in employment, service delivery, or education, even if it is a publicly funded position or program.
9. Protect religious behaviour, even in circumstances in which it is unlawful.
10. Prioritise freedom of religion over other human rights¹.

The GLRL believes it is important to consider this **Education Legislation Amendment** in the context of the other legislation and reviews proposed by Mr Latham. We urge the Commission to consider how these changes would tacitly undermine protections and safety for LGBTIQ people and a range of other social groups and to reject this Bill as another element of that effort.

¹ Equality Australia 2020, One Nation Bill Factsheet <equalityaustralia.org.au/resources/onenationbillfactsheet/>

The Education Legislation Amendment

The GLRL submit that this Bill should be rejected by this Committee. This Bill is fundamentally flawed for the following reasons:

- It would undermine the safety of LGBTIQ students in school environments.
- It would allow teachers to be punished for supporting vulnerable students.
- It would create an unnecessary and unreasonable workload for teachers.

The Bill will increase bullying, unsafety and harassment

We have significant concerns about the likely potential of this Bill to increase bullying and harassment in our schools for all students. We have particular concerns that this Bill would prohibit all school staff - including non-teaching staff, counselors, advisors - from affirming trans and gender diverse students who require support in the school environment. Trans and gender diverse people are at higher risks of mental health issues than their peers:

- Transgender people are eleven times more likely to attempt suicide.
- Transgender people are twelve times more likely to have thoughts about suicide.
- Transgender people are three times more likely to be diagnosed or treated with a mental disorder.

A 2020 study by the University of Western Australia surveying young trans and gender diverse people found:

Three in four participants had been diagnosed with depression and/or anxiety (74.6% and 72.2%, respectively). Many TGD young people had been exposed to negative experiences such as peer rejection (89.0%), precarious accommodation (22.0%), bullying (74.0%), and discrimination (68.9%). Most poor mental health outcomes were associated with negative experiences in schooling.²

The GLRL is concerned that this Bill would create further barriers to wellbeing for young trans and gender diverse people. By preventing staff like counselors from discussing gender diversity with a student, it removes a significant support system for a student at high risk of mental health issues and suicidal ideation. This is particularly harmful for trans and gender diverse who have experienced family rejection, an experience that is more common for trans and gender diverse people than gay, lesbian or bisexual people.³

² Strauss, P., Cook, A., Winter, S., Watson, V., Toussaint, D. W., & Lin, A. (2020). Associations between negative life experiences and the mental health of trans and gender diverse young people in Australia: Findings from Trans Pathways. *Psychological medicine*, 50(5), 808-817.

³ <https://probonoaustralia.com.au/news/2017/04/family-rejection-major-cause-lgbti-homelessness-report/>

Our members have told us that teachers and schools were an important support network for them as they came to terms with their sexual or gender identity.

Teachers are the first point of call for many students - especially some LGBTQI+ students where home is not as supportive as many would like.

Anonymous (26, community member)

At high school we have a transgender student come out. It was a really difficult time and there was so much going on for him. Our school was there for him - we made the needed changes so he could be supported and be ready for the school day. I couldn't imagine what it would have been like for him if the school didn't affirm his identity, used the correct name and pronouns etc. This Bill will have devastating implications and threatens the safety, mental health - and lives - of students in our community.

(18, Student)

To prohibit teachers, counsellors and other school staff from affirming trans and gender diverse people would simply undermine the wellbeing and safety of an already vulnerable group. To allow a Bill to pass which ripped a possible safety net away from vulnerable young people would be a cruel use of the legislative powers of the NSW Parliament.

This Bill would punish teachers for fostering inclusive environments

This Bill would not only see school support for trans and gender diverse students undermined, but it would also threaten the jobs of teachers who sought to support these students. Teachers, by training and innately through their work with young people, seek to support the wellbeing of students. The NSW Wellbeing Framework guides teachers and schools to ensure: "Children and young people in public education in NSW will experience a sense of connection, inclusion, respect for individuality and difference, resilience, empowerment, the capacity to contribute to their school and the wider community, and confidence to positively shape their own futures."⁴

Teachers are experts in supporting children and ensuring they are fit to learn and engage in the classroom. This Bill undermines this expertise by placing punitive punishments on teachers who use their skills to manage the wellbeing of trans and gender diverse young people. By making teacher support of trans and gender students a matter of accreditation, the Bill threatens teachers who attempt to provide supportive classroom environments for all students.

⁴https://education.nsw.gov.au/content/dam/main-education/student-wellbeing/whole-school-approach/Wellbeing_Framework_for_Schools.pdf

If teachers can't affirm the identities of students in their classrooms, it will make it difficult for them to form relationships, support those students and have them realise their potential.

(28, Teacher)

Aren't schools supposed to be about nourishing and fostering all aspects of our development? ... I mean how would you feel if your entire existence was ignored or denied?

(13, Student)

The Bill could mean teachers would lose their job for doing something as simple as using a student's preferred pronouns.

(16, student)

This Bill would create an unreasonable workload for teachers

This Bill would require the publication of an annual summary on elements of the educational program which will deal with political issues, wellbeing, ethics, and other social and cultural matters. To add this requirement to the burden already placed on teachers is unrealistic and unreasonable. It would also stop young people from getting a full education on contemporary issues and enter workplaces and other environments with a full understanding of the matters they are likely to encounter.

It seems likely that the publication of this annual summary is unlikely to stop students from asking their teachers complex questions about social and cultural matters and will instead simply stop a teacher from using their skills to address the student. On the matter of teacher accreditation, education standards, student wellbeing and teacher regulation we commend the expert submission of the NSW Teachers Federation and Independent Education Union of NSW/ACT.

Australian classrooms are diverse places. They are places for learning and growth for every child of every experience. Part of the work teachers do every day is to affirm students' sense of self, ensuring students can connect, succeed and thrive at school. This Bill would set a dangerous precedent for teachers in Australian schools - it would prevent teachers from recognising each student for who they are, and send a message to students that they are not worthy of recognition.

(30, Teacher)

Teachers are the first point of call for many students - especially some LGBTQI+ students where home is not as supportive as many would like.

Anonymous (26, Teacher)

A well rounded education means being exposed to a variety of social, political and moral perspectives so students can form their own voices and learn about themselves in a safe and respectful environment. A parent's worldview should not hinder a child's right to learn about social issues and broaden their understanding of others in the world.

(28, Teacher)

Unworkable, unnecessary and incompatible with existing laws

The Bill is unworkable and there is strong community concern about how it could be implemented in our public schools. Indeed, we caution the NSW Parliament against introducing a Bill that would not be compatible with existing anti-discrimination protections. Fair access to quality education no matter what a person's identity or circumstance must come first. This Bill does the exact opposite.

The Bill is completely necessary. The right of the parent in a student's education is already enshrined in existing legislation and education frameworks.. The Education Act 1990 states that parents hold the primary responsibility for the education of their children. It also allows for parents to have a choice in how and where their children are educated, and for parents to remove their child from some classes on religious grounds. The Alice Springs (Mparntwe) Education Declaration (December 2019) further enshrines the importance of parental influence in a child's education.

The Bill is anti-education in practice

Education is a given right to all children regardless of who they are, as enshrined in the International Covenant on Economic, Social and Cultural Rights, as well as the United Nations Convention on the Rights of the Child.

The right to an education in this Bill has been skewed significantly, especially when it comes to LGBTIQ communities. The Bill wants NSW schools to diminish both the practice and teaching of acceptance and respect. This Bill will impact students significantly as it will create an educational environment where their basic needs (safety) will not be met.

The Bill is anti-education in practice, and hinders both the ability of teachers to develop and perform their craft, as well hinders students ability to learn in a supportive environment.

Conclusion

The GLRL submit that this Bill should be rejected by the Committee in its entirety. This Bill relies on discredited theories about trans and gender diverse people being 'disordered' and extends this prejudice to attempt to pass flawed and unworkable legislation. By prohibiting school staff from supporting trans and gender diverse students the Bill does the dual harm of undermining student wellbeing and threatening the jobs of teachers. It is unclear what the benefit such a piece of legislation would bring. The Bill also, after a period of immense stress for teachers during Covid-19, places an unreasonable workload on educators by requiring them to report on their entire year's material at the beginning of each year.

This Bill should be rejected by this Committee and not be further considered by the Parliament.

We urge that the inquiry recommend that the Bill not proceed as it will undermine the delivery of quality education in NSW and impose an impossible and unjustified administrative burden on teachers and the overall education system.

It will undermine students' ability to learn in a supported environment. Schools play a critical role in developing children and young people's understanding of and capacity to prevent bullying and to develop their capacity for relationships based on equality, consent and respect.

The GLRL recommends the inquiry broadening the definition of 'parents' to include families and communities, incorporated into legislation and policy where possible.

The GLRL also recommends the development and introduction of programs on respectful relationships, sexuality and sexual health education in NSW Public schools and to make such provision mandatory.