

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

Organisation: Western Sydney Community Forum

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Dear The Hon. Mark Latham Chair of Portfolio Committee No. 3- Education,

Please find attached a joint submission from Western Sydney Community Forum (WSCF), Blacktown Area Community Centres (BACC), Liverpool Neighbourhood Connections (LNC) and Mountains Outreach Community Service (MOCS) to Portfolio Committee No. 3 relating to the Education Legislation Amendment (Parental Rights) Bill 2020.

Western Sydney Community Forum and our partners welcome the opportunity to provide feedback on this Bill. After a collaborative review, Western Sydney Community Forum and our partners do not support this Bill and have developed five recommendations for your consideration. These recommendations are intended to ensure that the safety and wellbeing of trans and gender diverse students are prioritised, and that the NSW education system continues to strive for better outcomes and a more inclusive learning environment for all students.

Thank you for providing the opportunity to make a submission.

If you require further information, please do not hesitate to contact Camille Derriman,
Policy and Projects on or Nadiana Albistur,
Acting Senior Policy and Programs .

Yours sincerely,

Billie Sankovic
Chief Executive

Response to the Education Legislation Amendment (Parental Rights) Bill 2020

March 2021



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ACKNOWLEDGEMENT OF COUNTRY

In recognition and respect of Aboriginal people as the original inhabitants of Country, Western Sydney Community Forum and our partners acknowledge the Traditional Custodians of this land and extend that respect to Elders past, present and future.



Introduction

On 5 August 2020, One Nation put forward the Education Legislation Amendment (Parental Rights) Bill 2020 (the Bill) for review. This Bill centres around the notion that all school curriculum, syllabuses, and courses of instruction must acknowledge that parents are primarily responsible for the teaching of social, political, and moral matters to their children. For this reason, the Bill specifically proposes that schools remove the teaching of gender fluidity from all levels of schooling, and that all teaching and non-teaching staff, including counsellors and external consultants, be prohibited from discussing gender fluidity with students. The Bill seeks to make it a condition of accreditation that teachers do not discuss gender fluidity with their students, and that accreditation be revoked should a teacher teach or discuss gender fluidity in school. Western Sydney Community Forum (WSCF) has been granted a deadline extension until Friday 5 March 2021 to submit a response to Portfolio Committee No. 3. WSCF has partnered with Blacktown Area Community Centres (BACC), Liverpool Neighbourhood Connections (LNC) and Mountains Outreach Community Service (MOCS) for this submission.

About our agencies



As the regional peak for greater Western Sydney (GWS), Western Sydney Community Forum (WSCF) is the social development council representing and supporting communities, community groups and agencies in the region. GWS has a population of 2.4 million people and a community services industry that annually invests \$2.7 billion into the GWS economy, according to the Australian Charities and Not-for-Profits Commission¹.

WSCF has led and shaped social policy and service delivery across GWS for over 35 years. As a regional peak, WSCF champions solutions that sustain community resilience, health, and wellbeing, works with community organisations, joins with business, and partners with government across all levels and services.

WSCF has an active and broad member and subscriber base (2,500+) that includes a mix of agencies that connect with and provide services to people across GWS. Members range from small community-based agencies to large charitable groups, local, state, and federal government departments as well as businesses.

¹ Australian Charities and Not-for-Profits Commission, 2016 Annual Information Statement (AIS) dataset, <https://data.gov.au/data-set/ds-dga-7e073d71-4eef-4f0c-921b-9880fb59b206/distribution/dist-dga-b4a08924-af4f-4def-96f7-bf32ada7ee2b/details?q=>

About our agencies



Blacktown Area Community Centres (BACC) is committed to empowering families and individuals to actively participate and create a community that is well-resourced, inclusive, diverse, and safe. Social justice principles and holistic approaches govern the work at BACC, and its membership base is open to user-groups, residents, workers, students, and any individual who wants to take an interest in any of BACC's activities and objectives in the Blacktown local government area. BACC relies on the generosity, skill, and expertise of volunteers for the provision of activities and services².



Liverpool Neighbourhood Connections (LNC) is a not-for-profit charitable grassroots organisation with operates in the Liverpool local government area. It aims to build a strong, inclusive, and safe community that overcomes disadvantage by providing accessible information, community development, capacity building and advocacy services. Its centres create and strengthen connections, honour, and celebrate diversity, provide direct relief from poverty, deliver a range of programs, and engage in outreach to several areas including Moorebank, Heckenberg, and Casula. LNC also delivers multiple social enterprises including Pepper's Place Catering and The Clothes Box. These enterprises provide employment to disadvantaged women and young men in the Liverpool LGA³.



MOCS is a community-managed organisation which brings people together to strengthen community connections and resilience. They have provided free or low-cost activities and services for the past 30 years to children, families, individuals, and groups in a variety of locations across the Blue Mountains. MOCS is a foundation member of the Stronger Families Alliance and a part of the Linker Network. Services include but are not limited to mobile child-care service, supported playgroups, the early literacy project "Paint the Blue REaD", and projects and activities on reconciliation⁴.

² BACC Annual Report, 2018.

³ Liverpool LNC, Our Vision, 2020.

⁴ Mountains Outreach Community Service, 2020.

Areas of Concern and Recommendations

WSCF and our partner agencies have reviewed the proposed Education Legislation Amendment (Parental Rights) Bill 2020 (the Bill).. As organisations working with communities and often vulnerable community members, we are committed to the health, safety, and wellbeing of all people in Western Sydney including children and young people. Young people aged 12-24 years make up 17.4 percent of the population in Western Sydney, and children under 11 years make up 17.1 percent, collectively representing a large proportion of the community⁵. Our agencies are committed to the health and wellbeing of all community members and to the rights and protections that should be afforded to all the diverse people in our region, including lesbian, gay, bisexual, trans, intersex, queer/questioning and asexual/aromantic people (LGBTIQA+, with the “plus” being representative of other sexual identities including but not limited to pansexual and Two-Spirit).

In our review of the proposed Bill, we have considered the potential impact on communities, especially on trans and gender diverse individuals. We have identified several areas of significant concern which are detailed within this submission. We oppose this Bill and believe it will have long lasting negative impacts on children, young people, and communities. Overall, it will have detrimental impacts on the wellbeing of individuals and is inconsistent with the legislated rights and protections afforded to people in NSW. Outlined below are the areas of concern, with a rationale and accompanying recommendations and alternative approaches to replace this Bill.

In summary, the areas of concern are:

1. Removal of gender fluidity and other topics from curriculum, syllabuses, and courses of instruction at all levels of schooling.
2. Non-teaching staff and consultants banned from teaching, counselling, or giving information about gender fluidity.
3. The Bill prescribes that is a condition of accreditation that teachers and other staff do not teach gender fluidity.
4. The Bill goes against NSW public education core values and existing legislation.

The recommendations are outlined below:

1. Schools to work with parents and students to create a stimulating learning environment that is safe, respectful, and inclusive of the needs and wishes of all parents and students.
2. Consider giving parents the option of withdrawing students from classes and still teach gender fluidity to others interested in learning.
3. Allow non-teaching staff, especially counsellors, to teach, counsel or discuss gender fluidity in a way that reflects students' needs.
4. Allow the process of accreditation for teachers without conditions in relation to preventing the teaching of gender fluidity.
5. Align the Bill with the NSW public education core values and ensure it upholds existing state and federal anti-discrimination policies.

⁵Western Sydney Community Forum, Communities of Change 2018.

Removal of gender fluidity and other topics from curriculum, syllabuses, and courses of instruction at all levels of schooling

The Bill is proposing that all schools demonstrate their acknowledgement of parental primacy in relation to core values by removing the teaching of gender fluidity completely from the curriculum, syllabuses, and courses of instruction at all levels of schooling.

Schools are generally a place to present both dominant and non-dominant narratives, which encourages students to become critical thinkers, nurtures curiosity, encourages discussion and debate, and supports positive personal and societal growth. As outlined by Equality Australia, school is often the first interaction by students with the world outside their families and encourages them to form social connections as well as “ask the big questions”⁶. This Bill seeks to restrict the ability of schools to provide a safe meeting ground to share these diverse ideas, beliefs, and perspectives.

As schools can be hostile environments for LGBTIQ+ students, discourse and awareness on gender fluidity needs to be made accessible. With education policies being based on a heteronormative and cisnormative narrative, it presents barriers to their performance and sense of belonging⁷.

This Bill ignores the needs of trans and gender diverse students who may need greater support around gender fluidity than is currently available and lacks the voices of trans and gender diverse people, which has been identified by researchers as being a common occurrence in decision-making and policy development⁸.

Should this Bill be passed, other evidence based issues including (but not limited to) racism, Australian history and climate change may also be removed because they may be seen by some parents as contradicting their political, social or personal values⁹.

Underpinned by the encouragement of debate in democratic values, all viewpoints must be honoured and shared as a way of moving towards a more inclusive education system that values the experiences of students and builds more resilient and productive adults of the future.

Recommendation 1: Schools to work with parents and students to create a stimulating learning environment that is safe, respectful, and inclusive of the needs and wishes of all parents and students.

Recommendation 2: Consider giving parents the option of withdrawing students from classes and still teach gender fluidity to others interested in learning.

⁶ Equality Australia, One Nation NSW Ignorance in Education Bill, 2020

⁷ Grossman and D'augelli 2006; Kosciw et al. 2014; Sausa 2005; Taylor and Peter 2011.

⁸ J. Sinclair-Palm & J. Gilbert 2018, Naming new realities: supporting trans youth in education, Sex Education: Sexuality, Society and Learning, vol. 18, no. 4.

⁹ Equality Australia.

Rationale

Non-teaching staff and consultants banned from teaching, counselling, or giving information about gender fluidity.

In addition to prohibiting teaching staff from discussing gender fluidity, this Bill also proposes to restrict any and all non-teaching staff and consultants from supporting students in this regard, including school counsellors and welfare officers. This is problematic for many reasons.

In Western Sydney as well as in the broader Australian context, trans and gender diverse individuals experience higher rates of mental ill-health and higher rates of feeling unsafe in various locations than their lesbian, gay and bisexual counterparts, and even higher rates than the general population¹⁰. People from culturally and linguistically diverse (CALD) backgrounds experience an even poorer sense of safety than their non-CALD counterparts¹¹ and the severely under-researched and underrepresented population group of Aboriginal and Torres Strait Islander LGBTQ+ young people face even greater challenges. Their multiple intersecting minority groups put young Aboriginal and Torres Strait Islander LGBTQ+ people in a unique position. This can lead to increased stresses and increased barriers to coping with these stresses¹².

Following on from this, some sexuality and gender diverse young people face rejection from their parents due to their sexuality or gender identity, which places them at higher risk for homelessness and suicide¹³. School may be the only place that can provide them support, so it is essential to embed appropriate timely support for better long-term outcomes in terms of the young person's housing, education, mental health, and productivity.

A scoping research project was completed in 2020 by Western Sydney University and AIDS Council of NSW (ACON), and supported by a number of other partner organisations including Western Sydney Community Forum. More inclusive education about sexuality and gender was identified as a need in Western Sydney, as schools are still experienced as a site of discrimination, harassment, and abuse. The lack of support and rejection of young people from families sometimes led to homelessness for LGBTIQ+ students, which had a direct effect on the students' ability to complete education¹⁴. There was a research study completed in 2014 by Western Sydney University and Twenty10 incorporating the Gay and Lesbian Counselling Service NSW (GLCS NSW), and funded by Young and Well CRC. The areas of Western Sydney, Sutherland Shire and regional/rural areas were identified by participants as the main areas of NSW that are more difficult to navigate for sexuality and gender diverse people as there were more experiences of homophobia and transphobia in these areas than other areas of NSW. Participants also specified that it was lack of education surrounding the topic, discriminatory school policies and

¹⁰ P. Strauss, A. Cook, S. Winter, V. Watson, D.W. Toussaint, et al. 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*, vol. 50, no. 5.

¹¹ ACON 2020, Advancing LGBTQ+ safety and inclusion: understanding the lived experiences and health needs of sexuality and gender diverse people in greater Western Sydney.

¹² B. Uink, S. Liddelow-Hunt, K. Daglas, D. Ducasse 2020, The time for inclusive care for Aboriginal and Torres Strait Islander LGBTQ+ young people is now, *Medical Journal of Australia*, vol 213, no. 5.

¹³ National LGBTI Health Alliance 2020, National LGBTI Health Alliance submission to the Productivity Commission's draft report on mental health.

¹⁴ ACON.

failure from teachers to appropriately respond to incidences of homophobia and transphobia that resulted in issues such as social isolation and disrupted schooling as a result of having to change schools multiple times¹⁵.

There are several factors that have contributed to the maintenance of a hostile environment for trans and gender diverse students in schools. Experiencing verbal and physical harassment and insufficient responses from teaching staff and administrators exacerbates the sense of feelings of being unsafe and can lead to disengagement from school¹⁶. This Bill seeks to uphold this exclusionary and hostile practice within the schooling system, and allow the systemic and legislative exclusion of trans and gender diverse individuals.

The National LGBTI Health Alliance submission to the Productivity Commission's draft report on mental health recommends that schools and universities become a focus of early intervention in mental health care, as the challenges and issues facing young LGBT people are unique to their age group and the need to foster a safe school environment is critical for improving access to the support they need. The submission recommends that training in LGBTI-inclusivity to be mandated for all wellbeing leaders who oversee activities to support mental health in schools. This will ensure that a comprehensive knowledge and understanding on the needs of young sexuality and gender diverse people are considered, addressed, and reflected in school wellbeing policies and when working with students and teachers to improve access to these supports.

In a situation where home life can be unsafe for LGBTIQA+ students, especially trans and gender diverse students, schools can serve as their main support through a counselling service which is inclusive and responsive to their needs. This in turn can lessen the effects of negative experiences, which will lead to better mental health and other outcomes in adulthood.

Recommendation 3: Allow non-teaching staff, especially counsellors, to teach, counsel or discuss gender fluidity in a way that reflects students' needs.

¹⁵ Young and Well Cooperative Research Centre 2014, Growing up Queer.

¹⁶ J. Sinclair-Palm, J. Gilbert.

The Bill prescribes that it is a condition of accreditation that teachers and other staff do not teach gender fluidity.

The Bill proposes that it becomes a condition of accreditation of teachers and other staff to understand parental primacy in matters including gender fluidity, and to have their accreditation revoked if they try to teach gender fluidity in their classroom.

In the 2020 scoping research project by Western Sydney University and ACON, the role of professional associations and membership bodies in embedding sexuality and gender diverse competencies and content in their accreditation processes was discussed as being an important step in improving the health outcomes of this population group. The education sector needs to address these issues of discrimination and prejudice relating to sexuality and gender at all levels, both in school and tertiary institutions, and have tertiary education incorporate LGBTIQ+ awareness, cultural safety, and sensitivity training in relevant professional training pre-service courses¹⁷. This is in direct contrast with what the Bill is proposing. If trans youth mental health is to be improved, a keyway to address this is to increase the level of awareness, understanding, responsiveness and inclusivity of trans and gender diverse experiences and needs within the school context, and to have school educators and community support services working together to deliver effective and responsive services to students¹⁸. This requires school educators to be unbound in their professional capacity to discuss and give support on gender fluidity to their students.

Recommendation 4: Allow the process of accreditation for teachers without conditions in relation to preventing the teaching of gender fluidity.

¹⁷ Young and Well Cooperative Research Centre 2014, Growing up Queer.

¹⁸ J. Sinclair-Palm, J. Gilbert.

The Bill goes against NSW public education core values and existing legislation.

The Bill is in violation of the NSW public education core values. Of the nine core values agreed upon by the NSW Government, the Bill is in contradiction to the following:

- Respect: Having regard for yourself and others, lawful and just authority and diversity within Australian society and accepting the right of others to hold different or opposing views,
- Cooperation: Working together to achieve common goals, providing support to others, and engaging in peaceful resolution of conflict,
- Care: Concern for the wellbeing of yourself and others, demonstrating empathy and acting with compassion,
- Fairness: Being committed to the principles of social justice and opposing prejudice, dishonesty, and injustice¹⁹.

This Bill also enables educational institutions to violate certain rights and protections contained within legislation. For example, schedules and clauses within the Sex Discrimination Act 1984:

- Part I- Preliminary
 - 5B - Discrimination on the ground of gender identity
 - (1) For the purposes of this Act, a person (the discriminator) discriminates against another person (the aggrieved person) on the ground of the aggrieved person's gender identity if, by reason of:
 - (a) the aggrieved person's gender identity
- 5B - Discrimination on the ground of gender identity
 - (2) For the purposes of this Act, a person (the discriminator) discriminates against another person (the aggrieved person) on the ground of the aggrieved person's gender identity if the discriminator imposes, or proposes to impose, a condition, requirement or practice that has, or is likely to have, the effect of disadvantaging persons who have the same gender identity as the aggrieved person.
- Part II- Prohibition of discrimination
 - Division 2—Discrimination in other areas
 - 21 Education
 - (2) It is unlawful for an educational authority to discriminate against a student on the ground of the student's sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, or breastfeeding:
 - (a) by denying the student access, or limiting the student's access, to any benefit provided by the educational authority;
 - (c) by subjecting the student to any other detriment.

Recommendation 5: Align the Bill with the NSW public education core values and ensure it upholds existing state and federal anti-discrimination policies

¹⁹ Department of Education, Values in NSW public schools.

Conclusion

The Bill has made several proposals which have been demonstrated by evidence and research as being highly problematic and extremely damaging to trans and gender diverse students should the Bill be passed. The prohibition of both teaching and non-teaching staff to give information, advice or support about gender fluidity will send the message to future generations of students that the very existence of gender diverse people can be disagreed with and is too contentious to teach in classrooms. Also, having the teachers' accreditation being conditional upon gender fluidity not being taught will result in silencing teachers and preventing intervention when incidences of homophobia or transphobia occur in school. Passing the Bill will mean that schools no longer adhere to the NSW public education core values and will also contradict the rights and protections upheld in other legislation, such as the Sex Discrimination Act 1984.

It is of utmost importance to WSCF, BACC, LNC and MOCS that all children and young people in Western Sydney are supported, and that their health and wellbeing is at the forefront of any policies and decisions relating to their education and development. All students have a right to a safe, inclusive, and respectful learning environment and schools have a right to be able to provide it to them.

