

Submission
No 74

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

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Submission in response to the *Education Legislation Amendment (Parental Rights) Bill 2020*

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We are researchers and academics working in the field of social and cultural diversity, with a research focus on gender and sexuality. We are currently undertaking research entitled, “Gender and Sexuality Diversity in Schools: Parental Experiences and Schooling Responses”. This research is funded by the Australian Research Council (DP180101676).¹

This project examines parents’ perspectives regarding the in/exclusion of gender and sexuality diversity (GSD) in school curriculum across Australia via a detailed survey (Ullman, Ferfolja & Hobby, 2021a). Two thousand, ninety-three (N = 2093) parents of school-aged children have responded, of whom 616 were from the state of New South Wales. An associated qualitative component seeks to understand how parents of GSD children navigate their child’s experiences in schools (Ferfolja & Ullman, in press).

The findings from our research and others in this field, combined with our employment experiences as teachers, researchers and pre-service teacher educators, informs our response below to the *Education Legislation Amendment (Parental Rights) Bill 2020*, henceforth referred to as “the Bill”. Overall, we consider the Bill to be highly problematic on a number of fronts including its conflation of parental rights with notions of core values and its singling out of gender fluidity (and sexual diversity). Of critical concern is the Bill’s potential detrimental impact on the mental health and well-being of GSD young people and their families, the conflict with numerous national and local policy guidelines, and the fact this approach is not representative of mainstream parental wishes for the education of their child/ren. It does not take account of current research and understandings in the field or the changed landscape around gender and sexuality diversity among young people.

We have detailed our concerns below.

Proposed amendment:

a) to clarify that parents and not schools are primarily responsible for the development and formation of their children in relation to core values such as ethical and moral standards, social and political values and an understanding of personal identity, including in relation to gender and sexuality;

c) to provide that schools should not usurp the role of parents – that teaching 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 the values held by parents of students;

Researchers’ Response:

Longstanding guidelines on the development of core values in schools encourage parental contribution. The NSW DET “Values in Schools” document (<https://policies.education.nsw.gov.au/policy-library/policies/values-in-nsw-public-schools>) lists core values as “integrity, excellence, respect, responsibility, cooperation, participation, care, fairness, democracy” where “diversity”, “accepting the right of others to hold different or opposing views” and committing to “principles of social justice and opposing prejudice, dishonesty and injustice” are stipulated. Furthermore, the document states that, “Schools in NSW share with families and the community the responsibility for teaching values. While

¹ As this work is very recent, publications arising from our research are either in press, under review or in development. We refer to this work in our submission.

values are learnt predominantly in the home and modified through relationships and life experiences, parents and the community have high expectations about commonly held values also being taught in schools”.

Additionally, the existence of gender fluid/non-binary/transgender individuals is not a value – it is a fact. Teaching students about the existence of these individuals is, thus, factual. Developing students’ understandings to ensure a harmonious society is, by extension, critical. Moreover, teaching young people to not discriminate against these individuals is aligned with NSW DET core values and with broader State and Federal legislation (e.g. Anti-discrimination Legislation). Furthermore, national and international policy guidance stresses the importance of GSD inclusion and recognition in education (see UNESCO’s 2018 publication *International Technical Guidance on Sexuality Education: An Evidence Informed Approach*) and a discrimination-free educational environment more generally (*Alice Springs [Mparntwe] Education Declaration*; Education Council, 2019). Inclusion of GSD in education directly responds to calls to action within the *National Action Plan for the Health of Children and Young People 2020-2030* (Australian Government, Department of Health, 2019).

The Bill assumes that parents’ core values are homogeneous and highly conservative, hence the explicit silencing of gender (and sexuality) diversity. It also assumes that all parents are necessarily socially responsible or have the capacity or desire to educate their child/ren, particularly in the area of gender and sexuality diversity. Research shows that although parents want input into their child’s education about GSD, they also think that such issues should be included in curriculum (Ullman, Ferfolja & Hobby, 2021a; Macbeth, Weerakoon & Sitharthan, 2009).

This Bill hinges on the central assumption that parents do not want GSD-inclusive education. Our nationally-representative sample of Australian parents shows otherwise². Nationally, our research found that the overwhelming majority of parents of children attending public schools feel that GSD-inclusive Relationships and Sexuality Education is important, particularly when this serves to protect students’ health and wellbeing (Ullman, Ferfolja & Hobby, 2021a). Over 80% of parents feel that gender and sexuality diversity-inclusive Relationship and Sexual Health content areas should be presented to students across either primary/early secondary schooling. This figure jumps to 88% for content related to bullying/discrimination of GSD individuals. Furthermore, almost 60% of parents agree that GSD-inclusivity should be actioned at a whole-school level, including school policies, practices, ethos, events and community. Similar percentages of parents agree that such inclusivity should extend beyond the Relationships and Sexuality Education curriculum.

In the NSW-specific sample, preliminary findings indicate that over half of NSW parents whose children attend public schools (50.2%) feel that the following statement *best* describes their beliefs about the purpose of Relationships and Sexuality Education:

In addition to covering biology and reproduction, Relationships and Sexuality Education should teach that sexuality is a positive part of life, and focus on empowerment, choice, consent, and acceptance of diversity.

² A high-quality reference (probability) sample was used to estimate our non-probability survey sample and to align it as closely as possible with the probability sample on key survey items. Our reference sample was Life in Australia™, which is an online probability sample of Australian adults (Kaczmirek et al., 2019). We combined the two samples and derived propensity weights from a model predicting membership in the non-probability sample, conditional on survey responses available for both samples (Elliott, 2009; Rosenbaum & Rubin, 1983). While non-probability samples are generally not as accurate as probability samples, the derived weights reduce errors as much as possible and enable inference with respect to the target population. Thus, and most importantly, our final, weighted sample of Australian parents can be described as *nationally-representative*; as is the case with any survey, though, some level of bias will always remain.

Notably, this is higher than the national average for parents of children attending public schools (46.5%). Parents in NSW wanted to see specific articulation of GSD identities across a wide-ranging series of Relationships and Sexual Health curriculum content topics, with minority numbers of parents indicating that they felt these topics “should not be discussed at any stage” (of schooling). Of particular relevance to the proposed Bill is our item on “Understanding gender diversity”, where 58.5% of NSW parents felt this should be introduced with the Relationships and Sexual Health curriculum during the primary years of schooling and another 27.6% of parents felt this should be introduced during the secondary years.

Proposed amendment:

d) to ensure that curriculum, syllabuses, and courses of instruction at all levels of schooling do not include the teaching of gender fluidity and recognise parental primacy in relation to core values;

e) to ensure that all school staff - including non-teaching staff, counsellors, advisors and consultants - do not teach gender fluidity and that such staff undertake their duties and engage with students in schools in a way that recognises parental primacy in relation to core values;

Researchers’ Response:

Inter/national research illustrates that GSD young people (and those perceived to be), experience high levels of harassment, identity silencing and discrimination in schools (Bradlow et al., 2017; Hill et al., 2021; Kosciw et al., 2018; Ullman, 2021). Recent research (Hill et al., 2021) has found that 60.2% of 6418 LGBTQ+ (i.e. GSD) young people reported feeling “unsafe or uncomfortable in the past 12 months at secondary school due to their sexuality or gender identity” (p. 15); this number is higher for trans young men/women. Further, 63.6% of high school participants reported “frequently hearing negative remarks regarding sexuality at school” (p. 15). In Australia, bullying rates towards GSD students are one of the highest in the Asia–Pacific, second only to Vietnam (UNESCO, 2015).

Such discrimination is linked to GSD students’ poor mental health, where self-harm, suicide ideation, attempts and completions are far greater than the national average (Rosenstreich, 2013). In 2018, suicide was the leading cause of death among Australians aged 5–17 (AIHW, 2020). GSD youth are five times more likely to attempt suicide than their peers (National LGBTI Health Alliance, 2020) and one-quarter of all suicides between 2013-2015 for individuals aged 12-14 years were GSD-identifying adolescents (Ream, 2019). The social costs adversely affect up to 125 people per suicide (not counting the impact on others of ‘attempts’) (Kinchin & Doran, 2018). Suicide in Australia is estimated to cost \$29 billion (Productivity Commission, 2020 p. 153).

The impact of discrimination on GSD students results in concerns for safety, diminished educational aspirations, lowered academic achievement, concentration problems and difficulties connecting with others at school (Ullman, 2015). These challenges manifest in GSD students’ disengagement with school and leaving school early, with long-term impact for their employment and future. Conversely, research shows that GSD students in schools with GSD-inclusive curriculum and support experience less harassment and greater connection to the school environment (Bradlow et al., 2017; Kosciw et al., 2018; Ullman, 2021); in fact, these benefits extend to the entire school community (Baams et al., 2017). When compared to international cohorts of 15-year-olds, the 15-year-old cohort of a recent national survey of 2367 GSD-identifying Australian high school students fared considerably lower on every measure of school belonging and isolation on the *Programme for International Student Assessment’s* “Sense of belonging at school” measure (PISA; ACER, 2018) – worse than even the lowest performing nation worldwide (Ullman, 2021). This research highlighted the importance of GSD students’ awareness of GSD-inclusive wellbeing/harassment policies at their school, with students in schools with

communicated GSD-inclusive policies reporting statistically significantly higher confidence in their learning (Ullman, 2021).

GSD students often seek assistance from school counsellors/advisors or selected, individual teachers around their gender and/or sexuality diversity. This Bill essentially deprives these children and adolescents of the support of a caring adult in the school environment, which for some, may be their *only* access to a caring adult and may mean the difference between life and death. The Bill attacks some of the most vulnerable in our community. Additionally, given recent national findings that only 67% of male and 55.6% of female Australian high school students experience strictly heterosexual attraction (Fisher et al., 2019), alongside our own nationally representative sample of Australian parents wherein 20% of parents reported that their school-aged child either identifies as, or is labelled as, GSD by their peers, the benefit of inclusion extends beyond (what can be thought of as) simply a niche, minority community.

The Bill echoes the highly repressive *Section 28* legislation in Britain, introduced in 1988 and repealed in the early 2000s, which made it illegal to ‘promote the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship’. Section 28 had a negative and lasting impact on the lives of many GSD individuals in school education (Ellis, 2007; Lee, 2019).

Proposed amendment:

f) to require schools at the beginning of each academic year to consult with parents about courses of study that will include teaching on core values;

g) to allow parents to withdraw students from instruction on core values where parents object to the particular teaching on these matters of parental primacy;

Researchers’ Response:

This proposition is completely impractical. Core values are embedded within many aspects of the curriculum and pedagogy and often arise as teachable moments which are impossible to plan for. They permeate multiple in/formal classroom conversations on a regular basis. They are also implicit in the hidden curriculum and embedded in proactive school community conversations about GSD-related bullying. Teachers are professionals and capable of representing the Department of Education and its proffered values.

Our nationally-representative survey of Australian parents indicates that parents value GSD-inclusive education for its broader, positive community impacts. On a multidimensional scale measuring parents’ personal feelings about GSD-inclusive curriculum (Ullman, Ferfolja & Hobby, 2021b), preliminary findings show that NSW parents were most likely to endorse supporting GSD-inclusive curriculum in public schooling because they valued ‘equality’.³ Furthermore, of the included factors, parents from NSW were least likely to say that their religious values were in conflict with GSD-inclusive education.⁴

The NSW Department of Education already has in place policy guidelines for the teaching of controversial issues via the “Controversial Issues in Schools” policy (NSW DET, 2020; <https://policies.education.nsw.gov.au/policy-library/policies/controversial-issues-in-schools>). This

³ Items and resulting factors in our multidimensional scale were measured on a 6-point Likert scale, ranging from 1=“strongly disagree” to 6=“strongly agree”. A representative item in the *equality* factor was “*I would support a GSD-inclusive curriculum because the education system should treat all young people equitably*”, which had a mean (average) score of 4.79 (SD = 1.09).

⁴ A representative item in the *religious values* factor was “*I would not support a GSD-inclusive curriculum because GSD conflicts with my religious values*”, which had a mean (average) score of 2.76 (SD = 1.68).

allows parents to withdraw their child from instruction where parents object to the particular teaching. The policy directs principals to “provide the option for parents or carers to withdraw their child from activities addressing controversial issues where appropriate in accordance with their professional judgement”.

Proposed amendment:

h) to require the NSW Education Standards Authority to monitor the compliance by government schools with the requirements to not teach gender fluidity and to recognise parental primacy in relation to core values;

i) to provide for a review after two years of the compliance of schools with these requirements and for that review to be tabled in both Houses of the NSW Parliament.

The Bill also amends the Education Standards Authority Act 2013 to provide that a function of the NSW Education Standards Authority includes a requirement to ensure that the school curriculum and teaching standards are developed and applied in a way which does not teach gender fluidity and which recognises the primacy of parents in relation to core values.

The Bill also amends the Teacher Accreditation Act 2004 No 65 to require that all approved teacher education courses recognise the primacy of parents in relation to core values and do not teach gender fluidity and ensure that it is a condition of the accreditation of teachers and other staff that they recognise the primacy of parents in relation to core values and that they do not teach gender fluidity.

Researchers' Response:

Teacher education courses focus on how to support students' academic outcomes as well as their wellbeing outcomes. Gender diverse students exist in schools. In their *6th National Survey of Secondary Students and Sexual Health* in years 10, 11 and 12, LaTrobe researchers found that 2.3% of their sample self-identified as transgender or gender diverse (Fisher et al., 2019). In their 2017 *TransPathways* study, the Telethon Kids Institute found that almost half of parents of transgender and gender diverse young people realised their child's gender identity when their child was either in their early childhood or primary schooling years (Strauss et al., 2017).

Mandating teachers not to support these students, to silence them and make their lives invisible throughout the years of their compulsory education, is a breach of duty of care to students and their families. There needs to be more done in terms of teacher professional development in this area, not less. Silencing teachers and teacher educators will not make the issues faced by GSD young people and their families disappear. Additionally, at the tertiary education level, such draconian restrictions as to what can be spoken is a breach of academic freedom and integrity.

Concluding Thoughts:

We agree that communicating with parents is important, as is parental education generally. However, the Bill's conflation of parental rights, core values and gender diversity is problematic. It makes assumptions about whose convictions should be 'heard' and that all parents are resistant to GSD inclusion which is incorrect. It calls for a particular ideological position, one that silences and makes invisible the lives and experiences of GSD young people and their families, many of whom are already struggling within the education system.

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