

**Submission
No 40**

INQUIRY INTO PUBLIC TOILETS

Organisation: Parents for Trans Youth Equity (PTYE)

Date Received: 1 November 2024

Dr A. Cohn, MLC, BA BMed MD MPH MIPH FRACGP
Committee Chair
Legislative Council Committee on Customer Service
Parliament of New South Wales
6 Macquarie Street
SYDNEY NSW 2000

Via email: portfoliocommittee8@parliament.nsw.gov.au

1 November, 2024

Dear Dr Cohn,

Re: Inquiry into Public toilets

Thank you for the opportunity to provide a submission to form part of the Portfolio Committee No. 8 – Customer Service inquiry into Public Toilets.

We are a group of parents and carers who seek to ensure all transgender and gender diverse (trans) youth are treated with respect, fairness and equity in the same way that non-gender diverse (cisgender) youth and their families are. This submission is representative of an increasing and significant number of loving and supportive families of trans youth across NSW **.

To improve public toilet safety and accessibility, we hereby submit:

1. So that trans youth can use school toilets safely, the Department of Education be mandated to urgently establish a specialist trans-focused human rights support unit, undertake a consultative review with experts in trans youth education, publish an updated version of '[Bulletin 55](#)', roll out mandatory training for all educators and staff,
2. All NSW public places with toilets, and private premises with toilets for the public (including every education facility across NSW) have all-gender toilet options by 1st January, 2028, with sanitary products and waste facilities in all toilets,
3. All NSW public places with toilets have sanitary products available (especially schools), and NSW public places with toilets, and private premises with toilets for the public have sanitary waste facilities, regardless of the gender the toilets are intended for,
4. NSW establishes a Human Rights Charter, and
5. The NSW Government funds a state-wide education campaign for the community on the human rights of transgender and gender-diverse children.

Trans youth are just like all other children; we just got their gender wrong at birth. They are inherently the exact same child prior to coming out as trans. They are still kind and compassionate, and they still do not keep their room clean every day! Nothing about them inherently changes just because we got their gender wrong at birth. There exists a sad reality that some in our community are not aware that trans children are loved just like other children, and that being transgender is a natural, normal (and frankly awesome!) part of our human diversity. We wish our trans children could focus on living their best life, rather than navigating unnecessary, discriminatory, and sometimes violent barriers.

When trans youth access public toilets in NSW, they do so for the exact same reason we all do. This includes accessing toilets provided in public places and toilets provided for the use of members of the public in private premises accessed by the public.

When we first lovingly looked into the eyes of our kids, we never considered that in their future, using public toilets could be problematic for them. No new parent should have to consider this. Unfortunately and increasingly, anti-trans activists' intentional dissemination of misinformation and disinformation has led to NSW trans kids and some NSW cis kids who do not conform to western binary gendered beauty ideals (e.g. cis girls with short hair wearing shorts or trousers) sometimes facing barriers, and even violence, when trying to access a public toilet. These vocal anti-trans activists with their unfounded accusations and lies represent a very small part of the NSW community and should not be able to affect the human rights of our children.

1. School Toilets

Part 2, Section 4 of the *Education Act 1990* states that every child should have the right to receive an education and it is the duty of the State to ensure that education is of the highest quality. Trans youth across NSW are denied this right when they find they are unable to safely access a public and/or school toilet. Toilets are known to be particularly hostile environments for trans youth, having been linked to verbal, physical and sexual assault within schools (Francis et al., 2022).

Many trans kids try to avoid public toilets, including school toilets, after sharing with their community who they inherently know themselves to be (after 'coming out'). As parents of trans youth, we have experienced some adult educators deny our children the right to access toilet facilities that best align with their gender. We can attest to our own kids developing urinary tract infections due to their avoidance (at any cost) of school toilets during the day. The development of medical issues as a result of trans youth avoiding school toilets has also been documented in local NSW research (Townley & Marjadi, 2024).

We know that the human rights of our trans kids are sometimes not well known within school communities, leading to an inability to access a toilet safely, and we have observed repeatedly that teacher confidence to stand up for our trans kids' human rights is often missing. Many times, it can lead to parents in the community who are anti-trans, confronting that teacher in a hostile manner. We have observed across NSW that educators lack the knowledge, confidence, and often the time, to intervene and educate children who

share anti-trans mis and disinformation in the playground and class-time. As parents, it comes down to us time and time again to patiently try and educate the educators (and wider community) on the human rights of our kids. However, not all parents have the knowledge and resources to do this, and it shouldn't be up to parents to advocate for their child's human rights. Education facilities across NSW should do this consistently and automatically.

Bulletin 55 is the Department of Education's only dedicated resource for schools across NSW with trans students. It was "last reviewed in December 2014" ([link here](#)). **TEN YEARS AGO!** Not only is this resource difficult for education facilities across NSW to find, it is outdated. P-TYE was thankful for the opportunity to provide responses to a question on notice at a NSW parliamentary inquiry in 2021, where we addressed the (already urgent back then) issue of Bulletin 55 being outdated and difficult for schools to locate. A link to our comprehensive response, via the Legislative Council's website is here: [Pages 7 to 23](#). We recommend however, that the Department of Education work with specialists in the field of trans-youth-education.

The downward spiral to discrimination, harassment, and sometimes violence towards our kids in education facilities, often first manifests when attempting to access a toilet. There is absolutely nothing sinister about our kids' accessing toilets! They just want and need to do their business, wash their hands, and get out. All kids should have that human right respected at all times. Our kids do not.

However, and luckily, this breach of human rights is rectifiable, with urgent mandated action that we submit should be considered by the committee for recommendation, ensuring the NSW Government and Department of Education stand up for our kid's human rights. We thereby submit that the NSW Department of Education is mandated to:

- a) urgently establish a dedicated specialist unit to support school communities across NSW in consistently protecting and upholding the human right of trans youth, including the use of school toilets that align with their gender,
- b) undertake a consultative review with experts in trans-youth-education to understand what a comprehensive, yet easily digestible replacement to Bulletin 55 should look like,
- c) publish an updated version of Bulletin 55 that is easily accessible by all schools, with associated checks and balances to ensure consistent application, and
- d) roll out mandatory training for all educators and staff on the rights of trans youth and ways to address anti-trans activism in schools, including safe access to toilets.

2. All-Gender Toilet Facilities

Not all trans youth align with a binary gender of boy/man or girl/woman. Increasingly, young people who do not align with the gender assigned to them at birth find themselves outside of this binary (non-binary). A study published last month found 84% of Australian trans adolescents confirmed they were outside of the gender binary (Marino et al., 2024).

An Australian report from 2022 confirmed the experience of some P-TYE families, which anecdotally appears to be increasing. That sometimes, in what is usually an inclusive supportive environment, trans boys attend all-girls schools, and trans girls attend all-boys schools (Power et al, 2022).

As mentioned earlier, toilets are known to be particularly hostile environments for trans youth, having been linked to verbal, physical and sexual assault within schools (Francis et al., 2022). With the global moral panic around trans youth and adults escalating over the past decade, there are increasing reports of cisgender girls and women being assaulted in public when trying to access a toilet also, where they do not conform to western beauty ideals (e.g. [Trans women pose no threat to cis women, but we pose a threat to them if we make them outcasts](#)).

Also, toilets dedicated to disabled people, should be available for disabled people. As parents of young people that sometimes prefer all-gender toilets, we know they want to use a toilet that is accessible for them, but they do not want to be a barrier to disabled people using toilets dedicated to disabled people.

Further, NSW research has found that whilst toilets are one of the greatest concerns of parents of trans youth requiring negotiation with primary schools, parents of trans youth in early childhood education facilities rarely face an issue, which could be due to their communal nature and lack of division of children by gender (Townley & Henderson, 2024).

For this reason, we submit that:

- a) all NSW public places with toilets are mandated to have all-gender toilet options by 1st January, 2028, and
- b) all private premises with toilets for the public (including every education facility across NSW) are mandated to have all-gender toilet options by 1st January, 2030.

3. Access to Sanitary products and disposal units

Some of our trans sons and non-binary children menstruate, as well as our cis daughters. Our children that menstruate are not always prepared, and it can be extremely awkward, and sometimes violent, for children during school hours to seek appropriate products.

We therefore submit that the NSW Department of Education provide access to sanitary products in all school bathrooms across NSW, and further, that all NSW public places with toilets provide access to sanitary products. The word 'all' encompasses male toilets, female toilets, and all-gender and disabled toilets.

Accordingly, we further submit that *all* toilets provided in public places, and toilets provided for the use of members of the public in premises accessed by the public have sanitary disposal units.

We thereby submit that:

- a) the NSW Department of Education be mandated to provide sanitary products in all bathrooms across NSW (male toilets, female toilets, all-gender and disabled toilets),
- b) all NSW public places with toilets provide sanitary products (male toilets, female toilets, all-gender and disabled toilets), and
- c) all toilets provided in public places, and toilets provided for the use of members of the public in premises accessed by the public, have sanitary disposal units (male toilets, female toilets, all-gender and disabled toilets).

4. Establishment of a Human Rights Charter

P-TYE strongly recommends NSW establishes a Human Rights Act or Charter to protect and promote the human rights of all its citizens, including from the point of view of the trans youth of NSW. Anti-trans moral panics which are sweeping the globe, endanger all young people, sending messages that bodily autonomy is not acceptable. Trans youth that utilise public toilets, do so for the exact same reason we all do. Their access to gendered bathrooms that best aligns with their gender, should be safe. A legislated Human Rights Act or Charter would protect their ability to use any toilet across NSW without discrimination based on their gender.

P-TYE notes that Queensland, the ACT, and Victoria all have a Human Rights Act or Charter of Human Rights and Responsibilities, making NSW an outlier on human rights compared to our neighbours.

All children deserve to grow up without discrimination, and use a toilet without discrimination. Trans youth particularly do not currently enjoy this right across all aspects of society and this discrimination is not okay. A Human Rights Act or Charter would go some way towards bridging this inexcusable divide.

P-TYE therefore submits that:

- a) NSW parliament establishes and passes a Human Rights Act or Charter as a matter of urgency.

5. Education Campaign

Tragically, there is an abundance of misinformation and disinformation in the community about trans youth. This is a significant underlying cause of toilets being a hostile environment for trans youth particularly. It is also the cause of increasing violence against cisgender girls and women when seeking to use a public toilet, and when they do not conform to western feminine beauty ideals.

A broad education campaign that lets the community of NSW know that their trans neighbours are exactly the same as their cis neighbours, except that we got their gender wrong at birth, would go some way to improve the safety of trans youth when accessing public toilets. A campaign would show the community of NSW what the science tells us,

and what we know as parents of trans youth: being transgender is a natural part of the spectrum of humanity, and that being trans is not something an adolescent ‘grows out of’. Study after study demonstrates that trans youth remain satisfied with affirmation many years later (Olson et al., 2024) with less than 1% of trans adolescents reverting to their gender assigned at birth (Cavve et al., 2024)). These studies confirm what we as parents have been privileged to witness ourselves.

As such, P-TYE submits:

- a) a recommendation be made to the NSW Treasurer that a public education campaign is well-funded to correct the misinformation and disinformation across NSW, about trans youth.

P-TYE would be pleased to meet with the Customer Service Committee to discuss any aspect of public toilets, trans youth or this submission further. Parents of trans youth hold a significant body of knowledge that can be used to inform services and professionals when our views and perspectives are centred, and our pertinent experiences should therefore be drawn on to inform professionals and policy makers in an integrated way (Townley & Henderson, 2024).

We love our kids just like other parents. Please help protect and promote their safety, well-being, and human rights. Please.

Yours faithfully,

Lannen Stapleton
She/Her
Executive Director
Parents for Transgender Youth Equity

Barbara Taylor
She/Her
Parent Representative
Parents for Transgender Youth Equity

** There is no accurate data on how many trans youth are in NSW. Power et al., (2022) reported in their study that 7.1% of high-school-aged young people are transgender. Using the rate of 7.1% and the Ministry of Health’s Centre for Epidemiology and Evidence population statistics for 2023 of all youth in NSW (1,964,716), this equates to approximately **139,495** trans youth across NSW needing to navigate public toilets safely. The majority of these youth would not be out to their parents or carers (Fenaughty et al., 2021).

Resources

Bulletin 55, NSW Department of Education, last reviewed December 2014.

<https://education.nsw.gov.au/rights-and-accountability/legal-issues-bulletins/transgender-students-in-schools>

Cavve, B.S., Bickendorf, X., Ball, J., et al. Reidentification With Birth-Registered Sex in a Western Australian Pediatric Gender Clinic Cohort. *JAMA Pediatr.* 2024;178(5):446–453. Doi:10.1001/jamapediatrics.2024.0077

Education Act 1990 No 8, Section 4.

<https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-1990-008#sec.4>

Fenaughty, J; Sutcliffe, K; Fleming, T; Ker, A; Lucassen, M; Greaves, L; and Clark, T; A Youth19 Brief: Transgender and diverse gender students (2021).

https://static1.squarespace.com/static/5bdbb75ccef37259122e59aa/t/607cb8431453ca0b05c53bb8/1618786373138/Youth19+Brief_Transgender+and+diverse+gender+students+April2021.pdf

Francis, J., Sachan, P., Waters, Z., Trapp, G., Pearce, N., Burns, S., Lin, A., & Cross, D. (2022). Gender-Neutral Toilets: A Qualitative Exploration of Inclusive School Environments for Sexuality and Gender Diverse Youth in Western Australia. *International journal of environmental research and public health*, 19(16), 10089. <https://doi.org/10.3390/ijerph191610089>

HealthStats NSW. Population estimates NSW (for 2023). Ministry of Health, Centre for Epidemiology and Evidence. Ages 0 – 19 inclusive.

[https://www.healthstats.nsw.gov.au/indicator?name=-dem-pop-nsw-abs&location=NSW&view=BarHorizontal&measure=Population&groups=Period,Age%20\(years\),Sex&compare=Age%20\(years\),Sex,Period&filter=Period,2023&filter=Age%20\(years\),10-14%20years,5-9%20years,15-19%20years,0-4%20years&filter=Sex,Females,Males](https://www.healthstats.nsw.gov.au/indicator?name=-dem-pop-nsw-abs&location=NSW&view=BarHorizontal&measure=Population&groups=Period,Age%20(years),Sex&compare=Age%20(years),Sex,Period&filter=Period,2023&filter=Age%20(years),10-14%20years,5-9%20years,15-19%20years,0-4%20years&filter=Sex,Females,Males)

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- Olson, K. R., Raber, G. F., Gallagher, N. M. Levels of Satisfaction and Regret With Gender-Affirming Medical Care in Adolescence. *JAMA Pediatr*. Published online October 21, 2024. doi:10.1001/jamapediatrics.2024.4527
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- P-TYE (2021). Post hearing response to the inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020 – Bulletin 55 recommendations, pp 7 – 23. <https://www.parliament.nsw.gov.au/lcdocs/other/15626/Lannen%20Stapleton%20-%20received%2018%20May%202021.pdf>
- Solnit, R., (2020). *Trans women pose no threat to cis women, but we pose a threat to them if we make them outcasts*. The Guardian. <https://www.theguardian.com/commentisfree/2020/aug/10/trans-rights-feminist-letter-rebecca-solnit>
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