



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEE NO. 3

Education Legislation Amendment (Parental Rights) Bill 2020



Report 44

September 2021

3

Portfolio Committee No. 3 - Education

Education Legislation Amendment (Parental Rights) Bill 2020

Ordered to be printed 6 September 2021 according to Standing
Order 231

New South Wales Parliamentary Library cataloguing-in-publication data:

New South Wales. Parliament. Legislative Council. Portfolio Committee No. 3 – Education.

Education Legislation Amendment (Parental Rights) Bill 2020 / Portfolio Committee No. 3 – Education [Sydney, N.S.W.] : the Committee, 2021. [xiv, 156] pages ; 30 cm. (Report no. 44 / Portfolio Committee No. 3 – Education)

“September 2021”

Chair: Hon. Mark Latham MLC.

ISBN 9781922543080

- I. New South Wales. Parliament. Legislative Council—Education Legislation Amendment (Parental Rights) Bill 2020.
- II. Ethics—Study and teaching—New South Wales.
- III. Moral education—Law and legislation—New South Wales.
- IV. Public schools—New South Wales—Curricula.
- V. Latham, Mark.
- VI. Title.
- VII. Series: New South Wales. Parliament. Legislative Council. Portfolio Committee No. 3 – Education. Report ; no. 44

370.11409944 (DDC22)

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Terms of reference

1. That Portfolio Committee No. 3 – Education inquire into and report on the Education Legislation Amendment (Parental Rights) Bill 2020.

Committee details

Committee members

The Hon Mark Latham MLC	Pauline Hanson's One Nation	<i>Chair</i>
The Hon Wes Fang MLC *	The Nationals	<i>Deputy Chair</i>
The Hon Catherine Cusack MLC *	Liberal Party Party	
The Hon Anthony D'Adam MLC	Australian Labor Party	
The Hon Scott Farlow MLC	Liberal Party	
The Hon Courtney Houssos MLC	Australian Labor Party	
Mr David Shoebridge MLC	The Greens	

- * The Hon Catherine Cusack MLC replaced the Hon Matthew Mason-Cox MLC as a substantive member of the committee from 20 May 2021.
- * The Hon Wes Fang MLC was elected Deputy Chair of the committee on 27 August 2021.

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Chair's foreword

There is nothing more uplifting in our society than a parent's love of their children. In a world of conflict and chaos, the family unit is a conduit to a better life, a refuge for young people in receiving care, compassion and nurture.

Yet, for reasons that have bewildered many, this positive view of family life is under challenge, even in the school education system. Many parents have reported to me they are unhappy about being excluded from school decision making, only finding out after-the-event of unacceptable content in the classroom.

As a parent in the Illawarra said to me, "I'm sick of my daughter in Year 7 coming home and saying to me, 'Dad, English today was gender studies again'. And then when I complain to the school, I feel like a second-class citizen. I can't get anywhere."

This is becoming a regular refrain in the NSW school system, with lasting damage to school results. Every time a parent feels disillusioned with a school it weakens the bonds of cooperation between teachers and parents. Communication breaks down, puncturing the positive cycle of feedback between students, teachers and parents that would otherwise produce high-level results.

Most likely, there are two reasons for the deterioration in the teacher-parent relationship. The first is political, with some activists targeting the institution of the family. On its website last year, for instance, the influential Black Lives Matter movement said it was dedicated to "disrupting the Western-prescribed nuclear family structure requirement".

The second reason lies in the evolution of schooling. In the origins of public education in NSW, schools were designed to serve the needs of parents and children, not the other way around. Through most of the 20th Century, parental rights were seen as a basic human right. Yet like all large, complex and hierarchical organisations, over the decades, schools have become more inward-looking and self-serving, even arrogant.

In some schools, parents are now seen as a nuisance, as unqualified laypeople who should get out of the way of 'we-know-best' education experts. Unfortunately, this view has become more common in the teaching profession. It has coincided with the proliferation of political teachings and social engineering in the classroom, as teachers push more of their personal worldview onto students.

My private member's bill, the Education Legislation Amendment (Parental Rights) Bill 2020, aims to overcome these problems. It seeks to reassert the rights and role of parents in the moral, ethical, political and social development of their children, such that no school should be teaching material in these areas against the wishes of parents. Another important objective of the Bill is to inform parents more thoroughly of content in the classroom - a 'no-surprises' strategy for the benefit of families.

In many respects, these reforms act on the public views of the Education Minister, Sarah Mitchell. In the Term 4, 2020 bulletin of the NSW Parents and Citizens Association, the Minister said, "Parents play such a critical role in education - you are the first teachers and we know from research that children and young people achieve more at school when their families are invested in their education."

Writing in the *Sydney Morning Herald* in December 2019, she declared, "Too often the curriculum has become a depository for content aimed at fixing societal ills. The reality is that instilling values sets and

encouraging positions on social and political issues is not the job of schools. It is the job of parents. A school's job is to equip kids with the knowledge needed to engage with the world as independent thinkers.”

These are fine sentiments. They are exactly what NSW parents would want an Education Minister to say. But rhetoric is not enough. It must be supported by action, a practical determination to separate the proper functions of schools from the responsibilities of parents.

In this regard, Minister Mitchell has fallen short. No matter how overtly ideological and offensive a teacher might be in the classroom, the worst that even happens to them is “counselling”. This simply encourages other schools and teachers to also turn their lessons into Left-wing political tutorials.

The NSW *Education Act 1990* has several references to parents but over time, these have proven to be tokenistic. After three decades, it is timely to update this statute with a stronger, more comprehensive expression of parental rights. If the Minister is to turn her rhetoric into results, an improved legislative framework is necessary.

In submissions and evidence to the Committee Inquiry there was little opposition to the parental rights component of the Bill. The greater focus was on gender fluidity. The Committee's online survey portal available to members of the public received an impressive 41,012 responses from NSW residents. The key results were:

- 55% support for the Bill (with and without amendments), 41% opposed and 4% undecided.
- 75% said parents don't have enough say about what is taught in classrooms.
- 88% said parents should be provided with an extensive outline of the curriculum at the start of each school year.
- 79% support a legal right for parents to take their children out of the classroom if what is being taught does not agree with their social and moral values.

Parents want a better deal from schools. They want more involvement and clearer protections for their children. The Parental Rights Bill is a timely reform for them.

One of the problems with the existing system is the weakness of the ‘Controversial Issues in Schools Policy’. It allows principals to define the meaning of ‘controversial’ – an automatic escape clause for schools pushing political garbage in the classroom.

There are many issues in the public arena that a significant number of parents regard as controversial. These can be listed as Black Lives Matter, police vilification, refugee policy, identity politics, gender fluidity, Bruce Pascoe's Indigenous ‘history’, Change The Date, Critical Race Theory, so-called toxic masculinity, unconscious bias and other Left-wing superstitions. It would not be difficult for the Department of Education to codify divisive and contentious political issues, giving schools a sharper understanding of what's controversial.

On the question of gender fluidity, the Committee has recommended not to pursue legislative change. During the Inquiry, the outdated nature of the Department's 'Legal Issues Bulletin 55 on Transgender Students in Schools' became clear. The most immediate way of addressing community concerns is to update the Bulletin advice to schools.

During our public hearings, it was refreshing to hear the other side of the argument on gender issues. The NSW Parliament has a heavy loading of Alphabet-focused MPs, devotees of identity politics and cancel culture who have silenced many of their critics.

In truth, the gender fluidity debate is heavily contested among experts. The Committee heard from psychologists who regard gender transition as a passing phase among young people, a product of students fads, attention-seeking and pranks. Other psychologists dismiss this point of view, regarding each student's circumstances as genuine and long-lasting.

Most likely, the truth lies somewhere in between - a combination of factors. However at schools, where teachers have been trained as educators not medical experts, how can they tell the difference? Some teachers feel paralysed and disempowered by student claims of transgender, lacking the capacity to separate genuine cases from the bogus.

In education we logically expect an adherence to established evidence bases. We know the best way of teaching reading, writing, maths and science (even if it's not always followed). But on transgender, the evidence is heavily contested and school expertise is limited. This is why, in the first instance, schools should leave gender fluidity to medical experts and parents, playing a supporting role and acting on their advice.

During the Inquiry, a number of 'progressive' interest groups even dismissed the notion of gender as a 'social construct' – the very basis of the new political push for gender fluidity. This is a new and emerging issue, subject to a flurry of hyperbole and speculation. In the absence of a clear evidence base, schools would be foolhardy to immerse themselves in gender fluidity claims.

Many parents are still wondering what gender and sexuality have got to do with the core purpose of education in developing deep knowledge and academic and vocational qualifications. It's a good question still unanswered by the Minister and Department of Education.

This has been a fascinating Inquiry, raising issues often left in the 'too-hard-basket' of NSW politics. It has provoked inner-Sydney street marches and even a raucous protest at one of our hearings in State Parliament House – direct action by the great unwashed. I thank them for their interest.

I sincerely thank each of the participants to the Inquiry: our Committee members and those who lodged submissions, gave evidence and voted on the online portal. In particular, the Committee's Secretariat staff have been outstanding in the conduct of the Inquiry and assisting with the preparation of this report. They deserve special gratitude.



Hon Mark Latham MLC
Committee Chair

Recommendations

Recommendation 1

41

That the Legislative Council proceed to debate the Education Legislation Amendment (Parental Rights) Bill 2020 and the committee comments and stakeholders' views expressed in this report be addressed during debate in the House.

Recommendation 2

41

That, in recognition of its obligations under the International Covenant on Civil and Political Rights, the NSW Government support *all* parental primacy provisions and protections in the Education Legislation Amendment (Parental Rights) Bill 2020 including:

- the statutory recognition of parental primacy in definition, object and principle within the *Education Act 1990* and related statutes;
- the requirement for teaching to be non-ideological;
- the enhanced consultation requirements with parents; and
- the right for parents to withdraw their children from teaching that is inconsistent with their core values and convictions.

Recommendation 3

41

That, in order to strengthen the provisions in Recommendation 2, and for the purpose of consistency in the *Education Act 1990*, the NSW Government support amending:

- a) Section 26 to broaden conscientious objections by parents beyond 'religious grounds' to cover the teaching of political and ideological dogma to their children; and
- b) Section 30 to broaden the current ban beyond religious dogma to cover political and ideological dogma.

Recommendation 4

42

That the NSW Government urgently review and overhaul the *Controversial Issues in Schools Policy* to afford greater priority and deference to parental rights and to provide, procedurally, more robust protections for parental authority. This reform should include the addition of a list of issues known to be controversial and divisive within school communities, and to be updated by the Department of Education on a regular basis. These should be issues where a significant proportion of public opinion (including parental opinion) is uncomfortable about the teaching of certain material, especially when taught from just one perspective (such as identity politics and gender fluidity). The revised policy should be consistent with and (where relevant) give effect to the parental primacy provisions and protections in the bill in accordance with Recommendation 2 above.

Furthermore, the committee recommends that the NSW Government make a concerted effort to inform parents of their rights under the *Controversial Issues in Schools Policy*. This should include a notification at the beginning of each school year to all parents/guardians by schools and the Department of Education.

Recommendation 5

43

That the NSW Government make it mandatory for all government schools to display on their website and update regularly, a clear outline of what they are teaching, with an associated list of text books and other learning materials used in their classrooms, including instruction and materials

provided by external consultants, in accordance with the committee's conclusions set out in this report.

Recommendation 6

43

That the NSW Government establish mandatory State-wide protocols and standards for maximising school communications with parents. For this purpose, the NSW Government should benchmark existing school best practice in this regard and require all schools to reach this standard.

Recommendation 7

63

That the Legislative Council amend the Education Legislation Amendment (Parental Rights) Bill 2020 to remove the proposed legislative provisions concerning gender fluidity.

Recommendation 8

65

That the NSW Government update *Bulletin 55: Transgender Students in Schools* based on the following principles:

1. The Safe Schools program and *Gayby Baby* movie are prohibited in NSW Government schools. Gender fluidity is not part of the NSW school curriculum and therefore, should not be taught or promoted, either in classrooms, teacher professional development, by external consultants, special school activities or through the distribution of material to teachers or students. This prohibition also applies to the teaching of gender as a 'social construct'.
2. As with all school students, transgender students must be treated with care, compassion, dignity and inclusion, free from discrimination, harassment, vilification and violence. They must be able to access all school classes, services and activities.
3. Schools cannot regard a student as transgender without regard to advice from medical experts and/or parents/guardians. Schools must always inform parents/guardians of relevant information and involve them at every stage of the decision making process.
4. No school or school staff can withhold information from parents about the gender or gender transition of a student at the school, other than by a court order or acting with the advice of a government child protection agency.
5. No student has the right or capacity to stop the school telling their parents information about their gender, where the school is obliged to do so.
6. No student under the age of 18 can change their name at school (away from the name on their birth certificate) without the consent of both parents/guardians with whom they live. In the case of shared custody, the consent of both parents is required.
7. Transgender students should be allowed to wear the school uniform of their choice and preference.
8. In school sport, once students reach high school (Year 7) they should not compete outside of their biological gender. This policy recognises the strength advantages teenage boys develop over girls.
9. Other than in circumstances of a full medical gender transition, students born biologically male shall not be allowed in female toilets, change rooms, dormitories and excursion accommodation; and vice versa for students born biologically female. Third options shall be made available for these students, such as administrative block toilets and change rooms.
10. If schools establish, either on the initiative of teachers or students, groups involved with support and discussion of matters concerning gender and sexuality (such as LGBTIQIAP support groups), students under the age of 18 shall only participate following the granting of parental consent.

11. For students aged under 18 years, school counsellors should not involve themselves in questions of gender fluidity and transition without prior reference to parents and any medical professionals advising the student and parents on this matter. Parents have the right to know if gender fluidity and transition are being discussed at school. School counsellors must liaise with parents and relevant medical professionals as much as possible.
12. If a student has changed their gender, their parents shall be consulted about the best way of communicating this to the school community. Parents of other children in the same year group should be notified of the change, allowing them to talk to their children in advance.

Recommendation 9**66**

That the NSW Government review the updated *Bulletin 55: Transgender Students in Schools* two years after its introduction, assessing its effectiveness and compliance by schools.

Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 5 August 2020.

The committee received 82 submissions and held two public hearings at Parliament House in Sydney.

The committee also conducted an online questionnaire to enable members of the public to have their say. The committee received responses from 62,687 individual participants including 41,012 responses from people who registered with a New South Wales postcode. A summary of these responses is included at Appendix 1 of this report.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

Chapter 1 Background

Chapter 1 provides a brief introduction to the Education Legislation Amendment (Parental Rights) Bill 2020, including an overview of its objects and provisions, before turning to a detailed examination of its rationale.

In considering its rationale and objectives, the chapter outlines arguments put forward by the Hon Mark Latham MLC justifying why the bill is a necessary protection for parental rights within the New South Wales education system, before turning to examples of overtly ideological and inappropriate teaching highlighted in evidence to the committee. These examples are considered within the broader context of changing levels of parental involvement in schools over time.

Reference

- 1.1 The Education Legislation Amendment (Parental Rights) Bill 2020 (hereafter, the bill) is a private member's bill introduced in the Legislative Council on 5 August 2020 by the Hon Mark Latham MLC.
- 1.2 On the same date, by resolution of the Legislative Council, the bill was referred to Portfolio Committee No. 3 – Education for inquiry and report.
- 1.3 Through amendments to the *Education Act 1990* and other statutes, the bill seeks to enshrine in law the primacy of parental rights in the formation of a child's social, moral and ethical values and in the development of a child's sense of personal identity. An overview of the proposed legislative amendments is provided below.

Overview of the Education Legislation Amendment (Parental Rights) Bill 2020

Objects of the bill

- 1.4 The objects of the bill are:
 - 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;
 - b. to prohibit the teaching of the ideology of gender fluidity to children in schools;
 - 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;
 - 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;
- 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;
- 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.¹

Proposed amendments to the *Education Act 1990*

- 1.5** Schedule 1 of the bill makes a number of proposed amendments and additions to the *Education Act 1990*, which are summarised below.

Statutory recognition of parental primacy

- 1.6** The bill inserts a number of new definitions, objects, principles and sections into the *Education Act* to define matters of parental primacy as they relate to the education of children and enshrine in law the principle that parents are the primary teachers and educators of their children in relation to such matters.
- 1.7** If enacted, these amendments would allow parents to object to teaching on matters of parental primacy and would make it mandatory for all government schools to make available to parents a summary of course content relating to these matters at the beginning of each school year.
- 1.8** Consistent with such intent, proposed amendments to s 6 of the *Education Act* also stipulate that the provision of education must be consistent with the convictions of parents, including their moral, political and social values.²

Prohibition on the teaching of gender fluidity

- 1.9** The proposed amendments insert a definition of gender fluidity into subsection 1 of s 3 of the *Education Act* while adding a number of provisions to subsequent sections to prohibit the teaching of gender fluidity in all Kindergarten to Year 12 courses of study.³

Requirement for teaching to be non-ideological

- 1.10** The bill inserts a new section after s 17 of the *Education Act* stipulating that education is to consist of strictly non-ideological instruction in matters of parental primacy, where the

¹ Explanatory Note, Education Legislation Amendment (Parental Rights) Bill 2020, pp 1-2.

² Education Legislation Amendment (Parental Rights) Bill 2020, first print, pp 3-6.

³ Education Legislation Amendment (Parental Rights) Bill 2020, first print, pp 3-6

construction of 'non-ideological instruction' stands in opposition to the advocacy or promotion of 'dogmatic or polemical ideology'.⁴

- 1.11** Clarifying the scope and application of both this requirement *and* the prohibition on the teaching of gender fluidity, the bill states at s 17C:

For the avoidance of doubt, sections 17A (prohibiting the teaching of gender fluidity) and 17B (requiring non-ideological teaching in matters of parental primacy) apply to any teaching, instructions, counselling and advice provided to students by:

- (a) non-teaching school executives;
- (b) non-teaching school counsellors;
- (c) non-teaching staff, contractors, advisors and consultants of a school;
- (d) non-school based staff, contractors, advisors and consultants of a school; and
- (e) volunteers at a school.⁵

New obligations and powers for the NSW Education Standards Authority

- 1.12** The bill requires the NSW Education Standards Authority (NESA) to indicate those parts of the syllabus that include content relating to matters of parental primacy and to ensure no syllabus it develops or endorses includes the teaching of gender fluidity.

- 1.13** By amending s 27 of the *Education Act*, the bill confers new powers on NESA to monitor and provide advice to the Minister for Education and Early Childhood Learning and the Secretary of the Department on the compliance of government schools with the bill's provisions. NESA would also be empowered to recommend to the Department that specific action be taken in instances of non-compliance.⁶

Ministerial requirements for compliance and reporting

- 1.14** Finally, the bill introduces a requirement for the Minister to review the compliance of schools with the relevant principles and objects of the *Education Act* (as amended by the bill) and any actions taken in response to instances of non-compliance by schools. The review is to be undertaken at the earliest opportunity after a period of two years from the commencement of the amended *Education Act*, with the outcome of the review being reported to Parliament within 12 months.⁷

Proposed amendments to other statutes

- 1.15** Schedules 2 and 3 of the bill amend the *Education Standards Authority Act 2013* and the *Teacher Accreditation Act 2004* respectively to further embed the principles underpinning the substantive amendments to the *Education Act* outlined above, and to support their operationalisation in relation to teacher training and accreditation, and course development.

⁴ Education Legislation Amendment (Parental Rights) Bill 2020, first print, p 4.

⁵ Education Legislation Amendment (Parental Rights) Bill 2020, first print, pp 4-5.

⁶ Education Legislation Amendment (Parental Rights) Bill 2020, first print, pp 4 and 5.

⁷ Education Legislation Amendment (Parental Rights) Bill 2020, first print, p 6.

- 1.16** Importantly, through amendments to s 24 of the *Teacher Accreditation Act 2004*, the bill makes it mandatory for NESA to revoke the accreditation of any person if it is satisfied that the person has failed to comply with any the professional standards requirements to which the bill would give rise.⁸

International Covenant on Civil and Political Rights

- 1.17** Inspired by Article 18 (4) of the International Covenant on Civil and Political Rights to which Australia is party, the bill treats parental rights as fundamental and inalienable human rights – that is, the foremost right of parents to determine and shape the moral formation of their children and instil in them social, political and ethical values that are consistent with their own convictions.⁹
- 1.18** In this sense, the bill seeks to recognise and enshrine Article 18(4) in New South Wales education legislation. This article provides that:

The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.¹⁰

Rationale for the bill

- 1.19** This section outlines the arguments in favour of the bill put forward by the Hon Mark Latham MLC in his second reading speech, before considering examples of overtly political and other inappropriate teaching highlighted in evidence to the committee. These are considered within the broader context of current levels of parental engagement in school communities.

The second reading speech

- 1.20** According to the Hon Mark Latham MLC, the bill is a legislative response to systemic problems within the New South Wales school system which have sidelined and marginalised parents, trespassing upon their rights as the primary carers and educators of their children.
- 1.21** Central to Mr Latham's case for legislative intervention are two key arguments:
- that, far from being in a state of decline, the nuclear family is still foundational in a child's social, emotional and moral development, and the proper ambit of schools is intellectual and academic growth not social and moral engineering; and
 - that the NSW Government has lost control of the school system and its policy directives are being ignored.

⁸ Education Legislation Amendment (Parental Rights) Bill 2020, first print, p 8.

⁹ The Hon Mark Latham MLC, second reading speech: Education Legislation Amendment (Parental Rights) Bill 2020, 5 August 2020.

¹⁰ United Nations Human Rights, International Covenant on Civil and Political Rights, 23 March 1976, a 18(4).

1.22 With respect to the first argument, Mr Latham called into question an assertion by Professor Geoff Masters, chair and author of the recent NSW Curriculum Review, that the family is in a state of decline and schools should instead be taking over many of the roles traditionally fulfilled by parents. Specifically, Professor Masters argued that:

With the decline of other institutions – sometimes including families – that once played a lead role in inculcating values and developing character, schools have found it increasingly necessary to give priority to students’ social and emotional development, and often to their physical and mental safety, health and wellbeing.¹¹

1.23 Responding to Professor Masters' assertion, Mr Latham observed:

The reality is most families still see themselves as part of a clear division of responsibility in relation to the education system. Schools are there for academic excellence, vocational skills, and imparting knowledge and intellectual growth in children. Parents are responsible for the emotional, social and moral development of their children, especially on intensely personal issues such as gender and sexuality. No decent parent would contract out guidance on such matters to school staff.¹²

1.24 According to Mr Latham, there is evidence that this delineation of responsibilities has become blurred by teachers believing they have 'a legitimate role to play in shaping the morality of children on personal identity questions', exercising influence in deeply personal matters that are the exclusive province and prerogative of parents, including political and ideological matters and questions surrounding identity.¹³ In essence, this is an infringement on parental rights – one sufficiently serious to warrant legislative intervention by the Parliament with a view to re-asserting the rights of parents and restoring the rightful division of responsibilities within the education system.

1.25 In this sense, the bill is an emphatic defence of the family unit as a pillar of society. Mr Latham explained:

The Parliament should legislate to defend the family unit and the biological science of gender. Parents, not schools, are the teachers of the values of their children. There are some fine teachers in the education system, but at the end of the day they are strangers in the lives of families. They come and go while parents are there 24/7, loving, nurturing and celebrating the achievements of their children, and dealing with the problems late at night and on weekends – never with a six week break.¹⁴

1.26 Understanding the specific enabling conditions that have allowed teachers to usurp the rights of parents brings us to the second argument bolstering Mr Latham's case for legislative reform – that is, that the NSW Government has lost control of the school system and its policy directives on the teaching of inappropriate material are being ignored by those actually in charge:

¹¹ NSW Education Standards Authority, *Nurturing wonder and igniting passion: Designs for a new school curriculum*, April 2020, p 4.

¹² Mark Latham, Second reading speech: Education Legislation Amendment (Parental Rights) Bill 2020, 5 August 2020.

¹³ Mark Latham, Second reading speech: Education Legislation Amendment (Parental Rights) Bill 2020, 5 August 2020.

¹⁴ Mark Latham, Second reading speech: Education Legislation Amendment (Parental Rights) Bill 2020, 5 August 2020.

In truth, the State Government has lost control of the education system. The interest groups and activists are ignoring the Premier and her Minister's policy directives. The Berejiklian Government does not actually run the New South Wales school system. It is run by bureaucrats, the Teachers Federation and what I call the education establishment – the same group of advisors who pop up on every inquiry and ride every gravy train, having already given our state the fastest falling school results in the world.

They see education as an agent for social and political change rather than a chance to give every student the best start in life.¹⁵

- 1.27** In his second reading speech, Mr Latham referred to comments made by the Minister for Education and Early Childhood Education, the Hon Sarah Mitchell MLC, signalling where the line should be drawn around the inculcation of values and the promotion of social and political agendas within the classroom. In a *Sydney Morning Herald* opinion piece, Minister Mitchell stated that:

The reality is that instilling values sets and encouraging positions on social and political issues is not the job of schools. It is the job of parents. A school's job is to equip kids with the knowledge needed to successfully engage with the world as independent thinkers.¹⁶

- 1.28** Mr Latham told members of Parliament that Minister Mitchell's and the Premier's policy directives – notably, the 2017 decision to end the Safe Schools program – have been largely ineffective in stopping the teaching of political and ideological material in the state's classrooms, and that Safe Schools-inspired teaching continues in defiance of the government's intentions (the Safe Schools program is outlined in detail later in the chapter). Referring to the 'education establishment', Mr Latham explained that '[f]or such people, the 2017 decision to end Safe Schools was irrelevant. They run the education system, so they have simply found other ways of implementing the same policy.'¹⁷

- 1.29** According to this argument, the NSW Government must therefore go much further than policy directives and actually legislate the 'provisions that the Government has been unable to provide for itself'.¹⁸ Mr Latham asserted:

The Minister says that we should not have politics in our schools and she is right. But the schools are not listening. The unions, the interest groups and the universities are treating the Government with contempt. That is why legislation is necessary.¹⁹

¹⁵ Mark Latham, Second reading speech: Education Legislation Amendment (Parental Rights) Bill 2020, 5 August 2020.

¹⁶ Sarah Mitchell, 'For 20 years our students have been slipping – but money is not the answer', *Sydney Morning Herald*, 7 December 2019.

¹⁷ Mark Latham, Second reading speech: Education Legislation Amendment (Parental Rights) Bill 2020, 5 August 2020.

¹⁸ Mark Latham, Second reading speech: Education Legislation Amendment (Parental Rights) Bill 2020, 5 August 2020.

¹⁹ Mark Latham, Second reading speech: Education Legislation Amendment (Parental Rights) Bill 2020, 5 August 2020.

1.30 In his second reading speech, Mr Latham detailed several examples of how the Safe Schools program and other ideological and polemical material continues to feature within the New South Wales school system against the wishes of the NSW Government:

- With apparently little accountability and oversight, continuing professional development providers such as the NSW Teachers Federation, Western Sydney University and MultiVerse continue to offer courses on teaching Safe Schools, teaching gender fluidity, queer families and inclusive practices for trans and gender diverse students
- Similarly, the education establishment continues to endorse and recommend a range of Safe Schools resources for teachers, including titles like the *Gayby Baby School Action Toolkit* and the *Gayby Baby Curriculum Guide*
- At Albion Park High School, during an assembly paying homage to Black Lives Matter, students were told 'things about Indigenous deaths in custody in Australia that are completely false' and were asked to kneel on one knee for the cause.²⁰

1.31 Throughout the inquiry, other examples of school overreach on matters of parental primacy were entered into evidence by advocates of the bill. This evidence is the focus of the following paragraphs.

Overtly political and ideological content in the classroom

1.32 Echoing Mr Latham's second reading speech, several proponents of the bill expressed concerns about dogmatic, political or polemical ideology being taught in the classroom, often unbeknownst to parents and to the detriment of their rights.

1.33 The Human Rights Law Alliance submitted that dogmatic and polemical ideology on social and moral issues is 'prevalent' in teacher training, course development and classroom content, and that in many cases 'teachers are encouraged to actively promote radical ideology rather than teaching children about a full range of moral, ethical and political positions.'²¹

1.34 The Australian Christian Lobby sounded a similar note, asserting that education increasingly includes the teaching of dogmatic and polemical ideology inconsistent with 'community values' and injurious to parental rights. As an example, the Lobby cited an edited collection of works entitled *Schools as Queer Transformative Spaces* which, it argued, tells teachers how they can 'queer' schools to make them less oppressive environments. In the Lobby's opinion, the promotion of this text to teachers constitutes an unacceptable intrusion on parental rights – being 'one of many examples where educators are intruding into the domain of parents and guardians and usurping their responsibilities.'²²

1.35 Coinciding with the committee's hearings, a case of political activism in the classroom was reported in the *Daily Telegraph* on 21 April 2021. The case involved year 5 and 6 students at Lindfield Learning Village – an experimental public school on Sydney's north shore – designing

²⁰ Mark Latham, Second reading speech: Education Legislation Amendment (Parental Rights) Bill 2020, 5 August 2020.

²¹ Submission 35, Human Rights Law Alliance, p 1.

²² Submission 16, Australian Christian Lobby, p 2.

posters displaying phrases such as 'stop killer cops', 'pigs out of the country' and 'white lives matter too much' in response to Black Lives Matter.²³

1.36 A subsequent media report about the incident quoted the school's principal, Ms Stephanie McConnell, as saying that the posters were part of an activity aimed at identifying students' prior knowledge of Aboriginal history before they started studying the topic. The posters were created in February 2021 and remained on display within the school until the news story was released.²⁴

1.37 Minister Mitchell ordered a full review into the incident, publicly stating:

These posters should not be displayed in a classroom. Any teacher found to be politicising a classroom will face disciplinary action. ... Political activism has no place in a school. I have asked the Secretary (of the Department of Education) to initiate a full review into this incident.²⁵

1.38 The incident was the subject of supplementary questions from this inquiry to Ms Georgina Harrison, at the time Group Deputy Secretary, School Improvement and Education Reform, NSW Department of Education, who further advised the committee that:

The comments on the posters are in no way endorsed by the Department of Education nor do they represent the Department's view of police, who do an extraordinary job of keeping the community safe and secure. The Department is presently conducting a review into this matter and will determine if any staff member has breached the Department's policies and procedures. If that is shown to be the case, disciplinary action will be taken.²⁶

Political ideology in the classroom: Black Lives Matter at Lindfield Learning Village

On the morning of the 21 April inquiry hearing, the Daily Telegraph carried a front-page story with a very worrying example of the extremes of political teaching and indoctrination in NSW classrooms.

The teacher of a Year 5/6 class at the Lindfield Learning Village on Sydney's North Shore was supposedly teaching Aboriginal history to her students. Strangely, this was done through lessons about Black Lives Matter from the United States.

The students completed posters, one of which read 'Stop Killer Cops', 'Pigs Out of the Country', 'End White Supremacy' and 'White Lives Matter Too Much'. The teacher was so positive about these posters she hung them from the classroom ceiling so that the students could read them every day.

²³ Christopher Harris, 'School white wash: Lesson in how to brainwash', *The Daily Telegraph*, 21 April 2021, p 4-5.

²⁴ Christopher Harris, 'School principal 'sorry' for cop-hating signs', *The Daily Telegraph*, 22 April 2021, p 4; Answers to supplementary questions, Ms Georgina Harrison, Group Deputy Secretary, School Improvement and Education Reform Group, NSW Department of Education, 19 May 2021, p 8.

²⁵ Christopher Harris, 'School white wash: Lesson in how to brainwash', *The Daily Telegraph*, 21 April 2021, p 4-5.

²⁶ Answers to supplementary questions, Ms Georgina Harrison, Group Deputy Secretary, School Improvement and Education Reform Group, NSW Department of Education, 19 May 2021, p 8.

The public was shocked that this could be happening in a New South Wales school. Lindfield's Principal offered an apology but by the next week, the school was displaying on its website new posters defending what had happened. One of the online posts described the lesson as teaching 'empathy' – a statement the Principal must have agreed with, as it sat on her website.

- 1.39** Dr Kevin Donnelly AM, former teacher turned education researcher and author, observed how widespread, pervasive and entrenched the politicisation of teaching has become, suggesting that educational experiences across primary, secondary and tertiary settings are almost always 'tainted' by what he called 'neo-Marxist inspired cultural literacy.' He explained:

Education has long since been absorbed by what I call the cultural left. It is very rare now that you will get an educational experience, either at school or university, which has not been tainted by that neo-Marxist inspired cultural literacy, or critical literacy is another. It is a deep concern. I think many people, many parents, are beginning to be concerned about that.²⁷

- 1.40** For proponents of the bill, the peddling of particular political and ideological agendas and worldviews within the classroom is evidence of the need to legislate to rid schools of ideology and dogma, and to enshrine in law the foremost authority of parents and guardians in guiding the social, political and moral formation of their children.

Diminishing parental involvement in schools over time

- 1.41** One of the narratives that emerged in evidence from faith-based supporters of the bill relates to the relationship between schools and parents, and how the level of parental engagement in school communities has diminished over time. These inquiry participants looked back to a time when schools were more open and transparent in engaging with parents in their child's education. This was in contrast to the default orientation of schools today, which was seen to allow less parental involvement and less respect for the wishes of parents.

- 1.42** One of the chief exponents of this view was Mr Keysar Trad, Chief Executive Officer of the Australian Federation of Islamic Councils. Reflecting on his own experiences as a parent within the public system in another era, Mr Trad told the committee that:

At the time that I sent [my kids] to school we did not have these issues to contend with. In those years, schools allowed parents far greater involvement in the education of their children ... in those years, because teachers actually did consult with parents, they were not as risky as they are today.²⁸

- 1.43** Mr Trad's evidence to the committee emphasised the 'then and now' contrast regarding the level of respect educators have for parents' wishes and rights. Referring to another personal experience as a parent, Mr Trad spoke of a time when he wrote to his son's school objecting to his son studying a book containing sexually explicit material. He noted that it was 'years ago' but

²⁷ Evidence, Dr Kevin Donnelly AM, private individual, 21 April 2021, p 26.

²⁸ Evidence, Mr Keysar Trad, Chief Executive Officer, Australian Federation of Islamic Councils, 20 April 2021, p 15.

was sure the school respected his views. However, in his opinion, a lot has changed in the intervening years. Mr Trad explained:

Not in today's schooling. I have seen the way schools treat parents' wishes change over the last 20 years. It has changed a lot. Actually, my kids have been going to school—my eldest is now 34 so that would be 30 years ago they started going to school. I have seen the changes over this period of time. It has changed a lot.²⁹

- 1.44 For Mr Greg Bondar, NSW/ACT State Director of FamilyVoice Australia, the disenfranchisement and disempowering of parents is being achieved through legislation. He observed:

One only has to look at the recent events around the country to see that legislation is now disempowering ordinary mums and dads who want to have a say in the education of their children. It is disallowing parents to be engaged and does not allow them to help their children to grow up. Parents are now being isolated. Schools are disenfranchising parents from the curriculum. Schools are failing to provide concerned parents appropriate forums and discussion opportunities for curriculum development.³⁰

- 1.45 This evidence paints a picture of school communities in which parents' rights, wishes and intentions are being increasingly sidelined, marginalised and excluded. For faith-based groups, this was evidence of the bill's necessity to wind back this marginalisation of parents and ensure through legislation that they have a much greater say in their children's education, especially in relation to their social, moral and political formation.

Unauthorised teaching of Safe Schools and gender fluidity – the unwritten curriculum

- 1.46 Safe Schools was established by the Victorian Government in 2010 and subsequently became a national network of organisations committed to fostering safe and more inclusive school environments for all students, including LGBTIQ students. It received funding from the Commonwealth Department of Education and Training between 2014 and 2017.³¹
- 1.47 In 2016, amid growing public concern about various elements of the Safe Schools program including its potential misuse for political ends, the then Federal Minister for Education and Training, the Hon Simon Birmingham, ordered a review of the program and appointed Professor Bill Loudon as its lead. Specifically, the review was to assess the appropriateness of Safe Schools resources and investigate the adequacy of consultation with parents and wider school communities about the use of such materials.³²
- 1.48 Having regard to the review's findings, Senator Birmingham concluded that, notwithstanding its worthy objectives of fostering supportive learning environments, the Safe Schools program had a number of 'shortcomings' which demanded immediate attention and action by

²⁹ Evidence, Mr Trad, 20 April 2021, p 19.

³⁰ Evidence, Mr Greg Bondar, NSW/ACT State Director, FamilyVoice Australia, 20 April 2021, p 2.

³¹ Safe Schools Coalition Australia, *The Safe Schools Coalition Australia*, <http://www.safeschoolscoalition.org.au/who-we-are>.

³² William Loudon, Review of Appropriateness and Efficacy of the Safe Schools Coalition Australia Program Resources, March 2016, p 4. Accessed online at: <https://nla.gov.au/nla.obj-497722056/view>.

government. This consisted of reforms such as amending and redesigning certain program resources, establishing peer review requirements for resource development, introducing controls around third party delivery of Safe Schools material and limiting the distribution of certain materials and resources.³³

1.49 Importantly, one of the immediate actions was to:

Ensure parents are appropriately empowered and engaged by:

- a. Requiring agreement of relevant parent bodies for schools to participate in the Safe Schools Coalition Australia programme, including the extent of participation and any associated changes to school policies.
- b. Requiring parental consent for student participation in programme lessons or activities, while maintaining the rights of all students to seek counselling services.
- c. Having an official fact sheet for the Safe Schools Coalition Australia programme for parents about the programme developed so they have access to full and consistent information of its content and the resources that may be used in schools.
- d. Having an official resource for parents of students dealing with questions of sexual identity developed, and distributed only by key qualified staff.³⁴

1.50 In 2017, coinciding with the conclusion of federal funding for the program, the NSW Government ended the Safe Schools program in New South Wales schools replacing it with a broader anti-bullying initiative which included new online resources and lesson plans to help identify, respond to and prevent bullying.³⁵

1.51 Throughout the inquiry the committee heard from a number of witnesses who made unsupported assertions that the Safe Schools Program was being taught in NSW Government Schools.

1.52 The Human Rights Law Alliance, for instance, wrote:

The NSW government banned the teaching of the Safe Schools program in NSW on the basis that it was inappropriate teaching on moral, ethical and political matters, which involved indoctrination into gender fluidity ideology. As was noted in the Second Reading Speech of the Bill, the Minister for Education and Early Childhood Learning has made it clear that it is the job of parents, not schools, to instil their children with moral, ethical and political values.

³³ Media release, Hon Simon Birmingham, former Minister for Education and Training, 'Statement on Safe Schools Coalition', 18 March 2016. Accessed online at: <https://ministers.dese.gov.au/birmingham/statement-safe-schools-coalition>.

³⁴ Media release, Hon Simon Birmingham, former Minister for Education and Training, 'Statement on Safe Schools Coalition', 18 March 2016.

³⁵ Nour Haydar, 'Safe Schools program ditched in NSW, to be replaced by wider anti-bullying plan', *ABC News*, 16 April 2017, <https://www.abc.net.au/news/2017-04-16/safe-schools-program-ditched-in-nsw/8446680>; Media release, NSW Department of Education, 'Launch of new school ant-bullying strategy', 22 July 2017.

The banning of the Safe Schools program did not end the teaching of gender fluidity in NSW schools or prevent teacher training, curriculum development or teaching in the classroom from including ideological indoctrination.³⁶

1.53 This was repeated in several submissions the committee received in support of the bill:

- Binary Australia stated that there is 'plenty of evidence to prove that aspects of such programs are still being utilised in NSW schools.'³⁷
- In their joint submission, the National Civic Council and Australian Family Association referred to cases of parents 'complaining of teachers using gender fluid resources in schools, and in teacher training and masters of education courses' following the NSW Government's decision to ban the 'teaching of gender theory in early 2017.'³⁸
- The Australian Christian Lobby submitted that 'the ideological positions on gender and sexuality which rendered the content of [Safe Schools] so troubling and unsuitable still finds expression in NSW classrooms.'³⁹

1.54 Mr Greg Bondar of FamilyVoice Australia singled out the NSW Teachers Federation as being responsible for continuing to promote Safe Schools, telling the committee:

The Teachers Federation—and there is ample anecdotal evidence and other evidence, and you do not have to go and look at it—are promoting and making Safe Schools, which I call unsafe schools, flourish within our education system at the moment.⁴⁰

1.55 A former high school teacher, Mr Bondar charged 'activist teachers' with 'spreading radical gender ideology in schools against the wishes of parents and the wider community.'⁴¹

1.56 In response to a question on notice in the Legislative Council concerning the alleged promotion of gender fluidity at Lindfield Learning Village, Minister Mitchell confirmed that there are no references to gender fluidity in the NSW curriculum.⁴² This was reiterated in evidence from Ms Georgina Harrisson of the NSW Department of Education, who told the committee 'gender fluidity is not and has never been part of any New South Wales syllabus.'⁴³

1.57 However, inquiry participants such as Mr John Steenhof, Principal Lawyer with the Human Rights Law Alliance, argued that '[w]hat is formally in the curriculum and what is actually being taught and promoted in schools are often two different things.'⁴⁴

³⁶ Submission 35, Human Rights Law Alliance, p 2.

³⁷ Submission 41, Binary Australia, p 4.

³⁸ Submission 60, National Civic Council and Australian Family Association, p 5.

³⁹ Submission 16, Australian Christian Lobby, p 2.

⁴⁰ Evidence, Mr Bondar, 20 April 2021, p 4.

⁴¹ Submission 9, FamilyVoice Australia, p4.

⁴² *Questions and Answers Paper*, NSW Legislative Council, 31 May 2021, p 5482.

⁴³ Evidence, Ms Georgina Harrisson, Group Deputy Secretary, School Improvement and Education Reform, NSW Department of Education, 21 April 2021, p 66.

⁴⁴ Evidence, Mr John Steenhof, Principal Lawyer, Human Rights Law Alliance, 20 April 2021, p 38.

1.58 The committee noted other evidence of gender issues and gender fluidity still being promoted in New South Wales schools via teacher resources, professional development or school events, despite the official curriculum not containing teaching on gender fluidity:

- Mr Keysar Trad of the Australian Federation of Islamic Councils referred to reports he has received of a public school running a cross-dressing day for teachers and students.⁴⁵
- Professor Dianna Kenny PhD, former Professor of Psychology at the University of Sydney and current private practising psychologist, identified the *Teacher Toolkit* and *Crossroads* curriculum packages as evidence of 'faulty' gender ideology in the New South Wales system and of the transgender lobby's influence over the Department of Education.⁴⁶
- In a supplementary question to the NSW Teachers Federation, the committee noted a professional development webinar on LGBTIQ inclusive schools held in August 2020 in direct contravention of the NSW Government's policy decision to end Safe Schools and discontinue the use of certain teacher resources.⁴⁷ This referred to the existence of an 'unwritten curriculum' used by the NSW Teachers Federation to advance gender fluidity in schools.
- Referring to issues parents have raised with his firm, Mr John Steenhof of the Human Rights Law Alliance observed that 'a common theme ... is where schools have been acting behind the backs of parents and have been actively counselling and indoctrinating children in gender theory and are promoting and pushing them down a pathway ... of gender transition which the parents only hear about some time later ... It effectively means that parents are the last to know.'⁴⁸
- As a further example, drawn from anecdotal reports to the Alliance, Mr Steenhof told the committee of an early education teacher being required by the school principal to teach four and five year old children that 'you are able select your gender: Girls can be boys and boys can be girls.'⁴⁹
- Binary Australia detailed a case of a parent having to remove their three-year-old son from a preschool that was promoting gender transitioning, gender fluidity and homosexuality under the guise of department-sanctioned 'diversity teaching'. In another case highlighted by Binary Australia, a prestigious all-girls private school invited a transgender speaker to address students from Year 1 to Year 12 to mark the International Day Against Homophobia, Biphobia, Intersexism and Transphobia (IDAHOBIT). It was reported that students as young as five were subjected to highly sexualised and highly controversial subject matter in the speaker's address, and the school did not seek parental consent for this activity.⁵⁰

⁴⁵ Evidence, Mr Trad, 20 April 2021, p 18.

⁴⁶ Submission 5, Professor Dianna Kenny, p 6.

⁴⁷ Answers to supplementary questions, Ms Maxine Sharkey, General Secretary, New South Wales Teachers Federation, 19 May 2021. The Federation's answers did not specifically respond to questions about the professional development webinar in question.

⁴⁸ Evidence, Mr Steenhof, 20 April 2021, p 36.

⁴⁹ Evidence, Mr Steenhof, 20 April 2021, p 38.

⁵⁰ Submission 41, Binary Australia, pp 5 and 6.

Gender fluidity in teaching training: NSW Teachers Federation webinar

On 4 August 2020, the NSW Teachers Federation held a professional development webinar on the topic of 'Inclusive Schools Agenda' at which the Federation's training officer spoke of the unwritten school curriculum. Members who attended the webinar were encouraged to incorporate gender fluidity material into all manner of curriculum, including wellbeing, personal development, health, physical education and even maths. The training officer in charge reportedly advised teachers, when teaching mathematics, to say: If you have a maths problem asking about statistics and different types of families, make sure you say not just 'George and his mum and dad' go to whatever, but it could be 'Georgia and her two mums'.⁵¹

In the webinar, gender was presented as a 'social construct' – that the only reason an 8-year-old girl might feel female is that her parents dressed her in pink and gave her a Barbie Doll to play with. The NSW Teachers Federation also recommended an excursion to the Sydney Aquarium for students to study (not marine biology) but two supposedly gay penguins hatching an egg. It is not hard to imagine there might be higher priorities than this for real education in New South Wales where student results have fallen away badly over the past 20 years.

- 1.59** Furthermore, in 2020, as part of Wear It Purple Day, a departmental communication was published on the SchoolBiz portal containing links to external websites operated by third parties. Some of these links included gender fluidity resources, Safe Schools booklets and transgender guides issued to 80,000 teachers.⁵² In response to a question without notice in the Legislative Council, Minister Mitchell acknowledged the incident, but distanced the Department of Education from the resources in question. She explained:

As the member said in his question, the SchoolBiz article linked to a Wear it Purple resources page, which is an external website operated by third parties. Those materials are not Department of Education materials and were distributed without permission. The article referencing the links has since been removed from the SchoolBiz portal. I can assure the member that I have spoken with the secretary of the department on the matter to ensure that the appropriate processes are reviewed and that more robust approvals are undertaken in the future. As I said, the material was not endorsed by the Government. It was sent out in error. It should not have happened and I have asked for assurances that something like it does not happen again.⁵³

- 1.60** Resources linked to official departmental communications for Wear It Purple Day 2020 were also the subject of the committee's supplementary questions to Ms Georgina Harrison of the NSW Department of Education.⁵⁴
- 1.61** During the inquiry, the committee Chair was also alerted to a student-led Gender Sexuality Alliance meeting at Merewether High School in Newcastle through correspondence to his office from concerned parents. The incident was the focus of recent questions to Minister Mitchell in

⁵¹ *Hansard*, NSW Legislative Council, 13 May 2021, p 10 (Mark Latham).

⁵² *Hansard*, NSW Legislative Council, 22 September 2020, p 3641.

⁵³ *Hansard*, NSW Legislative Council, 22 September 2020, p 3641.

⁵⁴ Answers to supplementary questions, Ms Georgina Harrison, Group Deputy Secretary, School Improvement and Education Reform Group, NSW Department of Education, 19 May 2021.

parliament. This incident, and the Minister's response, is detailed in the following case study, as written up by the committee Chair in the *Daily Telegraph*.⁵⁵

Gender Sexuality Alliance meeting at Merewether High School, Newcastle⁵⁶

Imagine your 12-year-old child coming home from high school one afternoon to tell you, out of the blue, that earlier in the day they had been part of a Gender Sexuality Alliance (GSA) meeting. At the meeting they played games of 'queer trivia' and discussed a range of 'LGBTQIAP topics.'

Imagine being told by your 12-year-old they had attended the meeting following a notification sent to all students by the school's Deputy Principal that read as follows:

"It's Gay at the GSA. The GSA (Gender Sexuality Alliance) is on Thursdays (today) in LC4! We thought now would be an amazing time to start it, alongside Pride month. For our first meeting we will be doing queer trivia and collecting possible LGBTQIAP topics to discuss. (Allies Welcome)."

Imagine not being asked by the school to grant consent for your child to attend. Imagine also a NSW Minister for Education who condoned this. Who, in fact, when asked about the GSA meeting and lack of prior-notice to parents, raised no objection.

Minister Mitchell was questioned in Parliament about this matter and asked to explain how this was a legitimate school activity and why parents had not been asked to grant consent for their children to attend. The Minister replied that the Merewether GSA was a 'student initiated and student led support group', "There is no associated event titled 'It's Gay at the GSA" and that as "The support group was not conducted in class time. Parental consent was not required for students to participate."⁵⁷

But the evidence shows that the meeting was clearly organised by the Deputy Principal and the event title was spelt out in the invitation.

The Minister was also asked what action she would take against the Deputy Principal, but she did not respond to this part of the question. The Minister must therefore be happy with what occurred and sees no problem with children as young as 12 learning about transgender, pansexuality and the rest of the new gender/sexuality alphabet. Seemingly, this has become a legitimate part of the New South Wales schools system under the Berejiklian Government.

It is beyond reason why sexuality and gender fluidity need to be a regular part of school life and school teachings. It is possible to go through 13 years of school and not know the sexuality of your teachers. Or care about the sexuality alphabet. Or to do anything other than master academic subjects, get good grades, enjoy yourself and move on to a successful adult life. This is what we used to call 'education'.

⁵⁵ Mark Latham, 'Parents left in the dark: Minister says no consent is needed for children to be taught gender sexuality at state schools,' *Daily Telegraph*, 2 July 2021, p 87.

⁵⁶ Mark Latham, 'Parents left in the dark: Minister says no consent is needed for children to be taught gender sexuality at state schools,' *Daily Telegraph*, 2 July 2021, p 87.

⁵⁷ *Questions and Answers Paper*, NSW Legislative Council, 28 June 2021, p 6134.

There was a time when teachers lived by the motto 'In Loco Parentis', meaning they were only ever acting in place of parents. And they had a responsibility to respect parents as the primary educators of children.

Committee comment

- 1.62** For decades, governments have been using the rhetoric of 'school education being a partnership between teachers, parents and students'. In the committee's view, this should be an equal partnership, recognising the rights and role of parents. Education research has consistently shown that student results are maximised whenever parents are heavily involved in the learning process, both at home and in collaboration with schools.
- 1.63** The committee notes that, in a full year, students only spend 14 per cent of their time at school, highlighting the importance of the home learning environment. In our opinion, good role models for learning, quality learning materials in the home and parental interest in and assistance with homework make a positive difference. So too, the more parents and teachers share information about a student's progress (identifying learning strengths and overcoming weaknesses) the more likely that student is to excel at school and live a life of personal capability and success. In light of the evidence concerning parent-teacher relationships, it is apparent to the committee that anything which creates mistrust and misinformation between parents and teachers will weaken a student's academic success.
- 1.64** The committee is very concerned by evidence of a recent trend in the teaching profession of excluding parents from important aspects of the school decision-making process. This is clear from constituent representations to MP's offices (such as those made to the Committee Chair, Hon. Mark Latham MLC, in the evidence he has presented to parliament). The committee is concerned that the professional development webinar offered by the NSW Teachers Federation on 4 August 2020 appears to contravene the Government's policy.
- 1.65** On the balance of evidence, the committee notes with concern the continuing existence of Safe Schools and Safe Schools-inspired resources, teacher training courses and student instruction within New South Wales schools. That the official curriculum is silent on gender fluidity provides little guarantee for parents concerned about these highly contentious and ideologically-laden issues. Policy edicts and good intentions are not enough. The NSW Government must go much further in protecting parental rights and in deterring teachers who take it upon themselves to teach gender fluidity and related issues through an 'unwritten curriculum'.
- 1.66** In the committee's opinion, the sidelining of families was the foundational goal of Safe Schools – Roz Ward, the program's architect, said as much. To properly ban Safe Schools, the NSW Government needs to end the core premise of Safe Schools: that teachers have a legitimate role to play in shaping the morality of children on personal identity questions such as gender and sexuality. These matters must be the preserve of families. That's what the bill aims to achieve.
- 1.67** The committee is dismayed by the distribution of gender fluidity guides including Safe Schools material at Denison College. Given that the Principal of the College is also the President of the New South Wales Secondary Principals' Council, this shows the need for clearer guidelines and procedures.

- 1.68 The Lindfield Learning Village incident is another clear example in the New South Wales school system whereby some teachers have taken it upon themselves to indoctrinate impressionable children into particular ideologies and divisive political agendas – in defiance of the NSW Government's interdictions. This was a lesson conducted in the name of 'tolerance' and 'understanding': teaching 11-year-olds to vilify the NSW Police and white people. In effect, it was teaching disrespect, hatreds and barbarism.
- 1.69 The committee is alarmed by evidence of the politicisation of the state's classroom – such as the Lindfield Learning Village incidence – and calls on the NSW Government to act swiftly to ensure that students and parents are protected from this tendency in the education system. Ministerial statements, indeed dozens of them over the past 18 months, have done nothing to stem the flow of politics into classrooms. New measures are needed to address the problem. The committee is supportive of legislation to entrench the importance of parental rights and give practical expression to this basic human right in our schools.

Current Departmental policy

- 1.70 A number of existing policies set out the Department of Education's official stance on the teaching of controversial issues in schools and support for transgender students. As these policies featured prominently in inquiry evidence, an overview of their aims and objectives is noteworthy as context for the key issues discussed in the following chapter.

Legal Issues Bulletin 55: Transgender students in schools

- 1.71 Last reviewed in 2014, *Legal Issues Bulletin 55: Transgender students in schools* (hereafter, Bulletin 55) is the Department of Education's formal legal advice and policy framework for transgender students in schools. Its core premise is that all students, including those who identify as transgender, have a right to be treated equitably and with dignity. For reference Bulletin 55 is reproduced in full at Appendix 2.
- 1.72 According to Bulletin 55, a student who has identified as transgender has the same legal rights or protections that are afforded to all students in New South Wales. Additionally, under State discrimination law, the Department of Education is legally prohibited from discriminating against a student on transgender grounds.
- 1.73 Under the Bulletin's provisions, transgender students may seek to change the way their first name is used and recorded by the school. Advice to Principals is provided in [Legal issues Bulletin 20](#) *Changing the way a student name is used and recorded by schools*, which sets out a protocol for changing the way a student's name is used and recorded, including in circumstances where a student identifies as transgender. Bulletin 20 provides that a transgender student's name can be changed if both parents consent to the way the first name is used and recorded by the school. If either or both parents object, the principal may make a decision on what is in the child's best interest, basing their decision on the age, capability and maturity of the student and advice from a health care professional. School records can also be updated to reflect the student's identified gender when their name is changed.

- 1.74 Bulletin 55 also allows transgender students to choose from uniform options available at the school, but requires them to wear items identified as necessary for particular activities, WHS requirements and anti-discrimination legislation.
- 1.75 Bulletin 55⁵⁸ sets out advice and guidance to schools for various practical considerations, including:
- **Use of toilets and change room facilities** – there should be an assessment of the risks posed to the student by using toilets of their identified gender to ensure their safety. Students should not be required to use toilets and change rooms used by persons of the sex they were assigned at birth and alternative arrangements should be made for them, for example, the use of staff or unisex toilets where possible. The exclusion of students identified as transgender from toilets or change rooms of their identified gender should be regularly reviewed to determine its continuing necessity, and if other students indicate discomfort with sharing single-sex facilities, this should be addressed through the school learning and support team.
 - **Excursions including overnight excursions** – a student who identifies as transgender should use facilities of their identified gender or unisex facilities if available, or in some circumstances it may be appropriate to arrange private sleeping quarters.
 - **School sport** – a student who identifies as transgender should be permitted to participate in most school-based sports as their identified gender. Students aged 12 and over can compete in certain sports at the elite level in certain circumstances and confidential case-by-case evaluation should occur.
 - **Curriculum** – teachers should be respectful and inclusive of all students' individual learning identity. Gender identity may be discussed in curriculum areas including Personal Development, Health and Physical Education (PDHPE).
 - **Gender transitioning while at school** – when a student advises of their intention to gender transition, schools need to provide a safe and supportive environment for them and, in consultation with the student and their parents or carer, a date is set for this transition, such as at the point of return from holidays, which would allow an immediately visible change even though personal process of change will occur over a longer period of time
 - **Enrolment in a single-sex school** – eligibility of a transgender student to enrol at a single-sex school should be considered on the basis of the student's identified gender. Advice should be sought from Legal Services if the student is already attending school.
- 1.76 Bulletin 55 also encourages schools to develop communication strategies for the student, the parents or carer, friendship groups, other students, school staff and the broader school community. The bulletin outlines that ongoing, open and transparent communication is an essential part of providing the student with a safe and successful education, unless the principal believes that it is not in the student's best interest to involve the parents or carers, for example, where a court order has removed a parent's parental responsibility for the student.

⁵⁸ NSW Department of Education, *Bulletin 55: Transgender students in schools*, December 2014, https://education.nsw.gov.au/about-us/rights-and-accountability/legal-issues-bulletins/transgender-students-in-schools#Sample_24.

- 1.77 It also creates an obligation for teachers to report any concerns or reasonable suspicions that a transgender student may be at risk of harm due to a parent or carer's response to that student identifying as transgender. School staff should inform their principal who in turn must consider whether to report it to the Department of Communities and Justice or the Child Wellbeing unit in the Department of Education.

The Controversial Issues in Schools Policy

- 1.78 *The Controversial Issues in Schools Policy* is the department's policy framework for the discussion of controversial issues in schools.⁵⁹ It provides an overarching framework for the identification and management of such issues; it does not, however, prescribe a list of issues deemed to be controversial.⁶⁰ Unfortunately, parental awareness about the policy is not strong. It seems that schools and the Department have used it as an internal document, not one to be publicised widely across the school community.
- 1.79 The policy recognises that schools are neutral places for rational discourse and objective study, and that discussion of controversial issues in schools should allow students to explore a range of viewpoints and not advance the interest of any particular group.
- 1.80 It stipulates that material presented to students should be age appropriate, sensitive to student needs, relevant to the curriculum and the school's purpose and goals, and be consistent with the core values outlined in the Values of NSW public schools policy.⁶¹
- 1.81 Paragraph 1.3.5 of the policy provides that contemporary material of an overtly political nature or which discriminates or promotes discriminatory behaviour must not be distributed to students unless the material is for study purposes and is relevant to the delivery of the curriculum.
- 1.82 Importantly, the policy also provides that parents and carers should be informed about the participation of their children in the delivery of curriculum, events, excursions, school programs or activities addressing controversial issues. It recognises that parents, carers and students may hold different views, which should be treated in a respectful manner.
- 1.83 Responsibilities for the administration of the policy within school communities are shared between school principals, teachers and school staff, and educational leadership, with each having a role to play.
- 1.84 In summary, principals are responsible for the high level governance and administration of the policy, including:
- promoting awareness of the policy and ensuring it is followed by the relevant school personnel to which it applies, including teachers, visitors, staff, contractors, volunteers, external providers or on excursions

⁵⁹ NSW Department of Education, *Controversial issues in schools: Direction for the management of controversial issues in schools*, <https://education.nsw.gov.au/policy-library/policies/pd-2002-0045>.

⁶⁰ Evidence, Ms Harrisson, 21 April 2021, p 75.

⁶¹ NSW Department of Education, *Values in NSW public schools*, <https://education.nsw.gov.au/policy-library/policies/pd-2005-0131>.

- ensuring the curriculum content is delivered in conformity with the policy
- ensuring that, where appropriate, parents or carers are notified of the participation of students in activities which address controversial issues and are given the option to withdraw their child
- taking appropriate action in response to breaches of the policy.

- 1.85** The responsibilities of teachers and other school staff largely mirror those of the principal, but with a more operational focus on curriculum delivery, direct supervision of visitors, external providers and student-led activities, and the reporting of relevant information to the principal to enable them to fulfil their obligations under the policy.
- 1.86** Directors and educational leaders are responsible for responding to breaches of the policy when escalated to them and supporting principals to respond to breaches by external providers in consultation with the Executive Director, School Performance. In addition, they are responsible for monitoring schools' compliance with the policy.

Committee comment

- 1.87** Based on evidence presented to the committee, we are not convinced that the *Controversial Issues in Schools Policy* provides sufficient protections for parental rights. A fundamental flaw of this policy is that schools are the sole arbiter of what is controversial. This involves inherently subjective judgements which can vary from school to school. More tellingly, what a school considers controversial and what parents consider controversial may differ significantly – and the policy gives schools the only and final say in this regard.
- 1.88** As such, it allows schools the discretion to dismiss parents' concerns on the basis that an issue is not 'controversial' in the school's estimation. This undermines the entire purpose of the policy and in reality provides very little protection to parents. This problem is magnified by a lack of parental awareness that the policy even exists. If by chance, parents know about it and use it, they then face other limitations. If parents raise a matter with the school but are told it is non-controversial, they have reason to believe they are at a dead-end and their complaint will not be successful.
- 1.89** As we heard in evidence from the NSW Department of Education, between 2018 and 2021, a meagre ten LGBTIQ-related complaints were escalated to the Department for investigation when they could not be resolved by schools at the local level. This was ten complaints over a three year period from among 800,000 students and their families on a state-wide basis.⁶² This statistic raises serious questions about the high level of discretion schools enjoy under this policy and speaks to the policy's ineffectiveness, including the lack of parental awareness about it. Something is clearly not working.
- 1.90** The committee makes specific recommendations about improvements to this policy in the next chapter.

⁶² Evidence, Ms Harrisson, 21 April 2021, p 75.

Chapter 2 Key issues

In this chapter, the bill's two principal components will be examined in detail: the enactment and recognition of parental primacy; and the proposed prohibition on the teaching of gender fluidity in schools.

Parental primacy

International human rights conventions

2.1 Stakeholders supporting the bill argued that it grants statutory expression to a number of Australia's human rights obligations under conventions such as the International Covenant on Civil and Political Rights and the United Nations Universal Declaration on Human Rights. A number of these inquiry participants maintained that there is a strong basis in international human rights conventions for the primacy of parental rights.

2.2 By far the most frequently cited instrument supporting the primacy of parental rights was the International Covenant on Civil and Political Rights and, in particular, Article 18 (4). This article states that:

The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.⁶³

2.3 In a general sense, by invoking the International Covenant on Civil and Political Rights, faith-based proponents of the bill characterised parental rights as fundamental and inalienable human rights – that is, the foremost right of parents to determine and shape the moral formation of their children and instil in them social, political and ethical values that are consistent with their own convictions. The committee noted the following specific examples:

- The Human Right Law Alliance argued that the bill is consistent with various articles codified in the Covenant, specifically Article 17 on the right of families not to be interfered with, Article 18 (4) as above, and Article 23 (1) providing that '[t]he family is the natural and fundamental group unit of society and is entitled to protection by society and the State.'⁶⁴
- A joint submission from the Catholic Archdiocese of Sydney and the Maronite Eparchy of Australia highlighted the synergies between the understandings of the Catholic Church and Article 18 (4) of the Covenant in their shared emphasis on the rights of parents in their child's education. On this basis, they observed that 'the bill reflects this common ground.'⁶⁵

⁶³ United Nations Human Rights, International Covenant on Civil and Political Rights, 23 March 1976, a 18(4).

⁶⁴ Submission 35, The Human Rights Law Alliance, p 4; United Nations Human Rights, International Covenant on Civil and Political Rights, 23 March 1976, a 23(1).

⁶⁵ Submission 46, Catholic Archdiocese of Sydney and the Maronite Eparchy of Australia, p 5.

- Adding their support for the bill, the Australian Federation of Islamic Councils and the Council of Islamic Societies in NSW Inc maintained that the bill will enshrine Article 18 (4) in New South Wales law as it aims to respect 'the liberty of parents and/or legal guardians to ensure the religious and moral education of their children is in conformity with their own convictions.'⁶⁶
- Similarly, Freedom for Faith submitted that the bill's intentions 'align' with several articles enshrined in the Covenant.⁶⁷

2.4 One of the more comprehensive accounts of the bill's basis in human rights conventions was provided by the Institute for Civil Society. Drawing on commentary and interpretations of Article 18(4), the Society formed the view that the article goes further than simply affording the right to establish religious private schools; it also extends to parents' rights within the public school system. The Society submitted:

Article 18(4) is not limited to the right to establish private schools. It extends to parents of children within public schools. As Nowak recognises, 'Art 18(4) focuses on the obligation of States parties to respect the liberty of parents "to ensure" ("de faire assurer") the religious and moral education of their children, in both curricular and extra-curricular areas.' This right grounds the requirement that public education be 'neutral and objective' and also provides the right of parents to excuse their children from instruction (including religious instruction) where such is provided by public schools.⁶⁸

2.5 This view was reinforced by the Anglican Church Diocese of Sydney which noted that Article 18(4) requires the State to consider parents' convictions in curriculum delivery within the public system, even though parents have the option to send their children to value-aligned private or religious schools instead:

... although the existence of private religious schools itself gives effect to the parental right and, as such, is 'a part of institutionalised diversity within a modern pluralistic society, their existence cannot serve as an excuse for the State not to pay sufficient attention to religious and belief diversity in public school education.' ICCPR Article 18(4) has two primary consequences: it grounds the right to establish private schools, and it requires the State to regard the moral and religious convictions of parents of children in State schools.⁶⁹

2.6 According to the Institute for Civil Society, similar rights are reinforced by Article 13 of the International Covenant on Economic, Social and Cultural Rights, which goes to the important role education plays in preparing a child for society. In particular, the Society drew attention to Article 13(3) which states, in terms reminiscent of Article 18(4) :

(3) The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum

⁶⁶ Submission 48, Australian Federation of Islamic Councils, p 4; Submission 62, Council of Islamic Societies in NSW Inc, p 4.

⁶⁷ Submission 69, Freedom for Faith, p 1.

⁶⁸ Submission 66, Institute for Civil Society, p 15.

⁶⁹ Submission 27, Anglican Church Diocese of Sydney, p 3.

educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.⁷⁰

2.7 The Society also cited United Nations Universal Declaration of Human Rights as providing protection for the prior right of parents to choose the kind of education given to their children.⁷¹

2.8 Having regard to the cumulative operation and effect of these various conventions (which Australia has previously ratified), the Institute for Civil Society concluded that Australian governments have an obligation to respect the rights of parents to ensure the religious and moral education of their children conforms with their own convictions, including the right to protect their children from teaching that has detrimental impacts:

This includes a right of parents to protect their children from teaching that detrimentally impacts upon the religious and moral education of their children by having their children exempted from attending those classes where such teaching is presented (this is the same human rights basis on which parents are entitled to have their children exempted from attending religious instruction classes in government schools where the instruction is contrary to the religious and moral convictions of the parents).⁷²

2.9 The Society further concluded that '[i]n its prohibition of 'dogmatic or polemical ideology, the bill can be said to give effect to the relevant international law.'⁷³

2.10 Other faith-based groups such as Freedom for Faith pointed to the United Nations Convention on the Rights of Child to further embed parental primacy in international human rights conventions and position parental rights as fundamental human rights. Freedom for Faith drew an explicit correlation between the bill's intent and Articles 5 and 14 of the Convention of the Rights of the Child which enjoin State parties to respect the responsibilities, rights and duties of parents.⁷⁴

2.11 However, arguments about the bill's basis in international human rights law were not supported by all inquiry participants. Expert legal groups such as the Law Society of New South Wales, the NSW Council of Civil Liberties and the Australian Lawyers for Human Rights expressed caution about 'cherry picking' certain rights in isolation of others and asserted that *all* human rights need to be considered in their totality.⁷⁵ The primary concern was that the bill would undermine the rights of the child in preference for parental rights.

2.12 For example, the Law Society of New South Wales formed the view that enshrining one single article from the International Covenant on Civil and Political Rights would not be appropriate.⁷⁶ It cited the Vienna Declaration and Program of Action, adopted by 171 states including

⁷⁰ United Nations Human Rights, International Covenant on Economic, Social and Cultural Rights, 3 January 1976, cited in: Submission 66, Institute for Civil Society, p 14.

⁷¹ Submission 66, Institute for Civil Society, p 14.

⁷² Submission 66, Institute for Civil Society, p 3.

⁷³ Submission 66, Institute for Civil Society, p 3.

⁷⁴ Submission 69, Freedom for Faith, pp 2-3.

⁷⁵ See for example: Evidence, Mr Kirk McKenzie, Member, Human Rights Law Committee, Law Society of New South Wales, 21 April 2021, p 57; Submission 2, Dr Bruce Baer Arnold, p 8.

⁷⁶ Submission 15, The Law Society of New South Wales, p 4.

Australia, which sets out a framework for the consideration of international human rights as they relate to, co-exist and co-operate alongside one another:

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.⁷⁷

2.13 Ms Georgia Burke, Co-Chair of the LGBTI Subcommittee for the Australian Lawyers for Human Rights, took a similar view. She summarised this framework with reference to three defining principles:

- the principle of indivisibility which recognises that all rights are equally valuable and there is no hierarchy of rights;
- the principle of interdependence; and
- the principle of proportionality which implies that any interference with a right must have a legitimate aim and should be proportionate to the harm it purports to remedy.⁷⁸

2.14 According to Ms Burke, 'competing' rights should be managed in accordance with this framework.⁷⁹

2.15 On this basis, Ms Burke told the committee that 'it is [the Australian Lawyers for Human Rights]'s strong position that the bill does subjugate the rights of children to the rights of parents' and the bill may contravene the United Nations Convention on the Rights of the Child which Australia has signed and ratified.⁸⁰

2.16 The Law Society of NSW expressed a similar view, telling the committee the bill references one human right only, and overlooks the child's right to non-discrimination and freedom of expression as afforded by the United Nations Convention on the Rights of the Child.⁸¹

2.17 Significant concerns were raised about legislating for a model of parental primacy and, in particular, defining parents as having rights over and above schools and indeed children themselves.

2.18 Stakeholders broadly recognised the pre-eminent role of parents in educating their children, but reinforced that this cannot be an absolute right because children also have rights.⁸²

⁷⁷ UN General Assembly, *Vienna Declaration and Programme of Action*, cited in Submission 15, The Law Society of New South Wales, p 4.

⁷⁸ Evidence, Ms Georgia Burke, Co-chair, LGBTI Subcommittee, Australian Lawyers for Human Rights, 21 April 2021, p 63.

⁷⁹ Evidence, Ms Burke, 21 April 2021, p 63.

⁸⁰ Evidence, Ms Burke, 21 April 2021, p 63.

⁸¹ Evidence, Mr Kirk McKenzie, Member, Human Rights Law Committee, Law Society of New South Wales, 21 April 2021, p 57.

⁸² Evidence, Dr Lesley Lynch, Convenor of the NSWCCJ Criminal Justice, Police Powers and Mental Health Action Group, NSW Council for Civil Liberties, 21 April 2021, p 62.

- 2.19** The conception of parental primacy potentially trespasses directly on the requirements under the Conventions on the Rights of the Child, as well as 'the right to non-discrimination or freedom of expression, noting that that latter right includes the right to receive information and ideas as well as express them.'⁸³
- 2.20** The impact of parental rights superseding those of children was seen as able to 'significantly impact children's healthy development and wellbeing.'⁸⁴ This was of particular concern during the normal period in adolescence when young people are exploring their identities and shifting attachments to power and social groups. Some submissions highlighted that the primary function of parental primacy was in situations relating to gender fluidity which creates a paradox of different parents having different rights:
- this Bill creates unequal rights among parents, where the perspective of parents who oppose 'gender fluidity' is privileged over that of parents who support and affirm the existence of trans and gender diverse people.⁸⁵
- 2.21** The notion of parental rights was also one-sided, conferring only rights and ignoring concomitant responsibilities - for instance it 'neglects mention of the responsibility of parents and adults to ensure our educational institutions are safe places for all children.'⁸⁶
- 2.22** It is also important to remember that not all families are safe places for young people, particularly trans and gender diverse young people. Family conflict is a significant cause of youth homelessness with relationship/family breakdown the reason given by 25 per cent of young people accessing social housing in New South Wales.⁸⁷ The bill also fails to account for situations where the school disclosing to the family could be an unsafe pathway for the child, with expert stakeholders attesting this is a very real experience for young trans and gender diverse people in New South Wales.⁸⁸
- 2.23** It was further pointed out that the bill does not comply with the 'guidance of the UN Treaty Bodies concerning children.' Existing consideration of this tension in the European Court of Human Rights is instructive and found that while parents have the right to respect for their ideology, 'the setting and planning of the curriculum fall in principle within the competence of the Member Country.'⁸⁹
- 2.24** A number of witnesses also expressed concerns that the bill would create potential conflict with other statutory obligations. Ms Georgina Harrison, Group Deputy Secretary, School Improvement and Education Reform Group, NSW Department of Education, in her evidence indicated that:

[T]he department acknowledges the legal risks identified in a range of the submissions received by this Committee including by the Law Society of NSW. The bill's provisions in their current form may create uncertainty against a range of State, national and

⁸³ Evidence, Mr McKenzie, 21 April 2021, p 57.

⁸⁴ Submission 18, Australian Psychological Society, p 4.

⁸⁵ Submission 14, ACON, p 10.

⁸⁶ Evidence, Ms Burke, 21 April 2021, p 58.

⁸⁷ Submission 13, YFoundations, p 4.

⁸⁸ Evidence, Ms Jain Moralee, Co-Executive Director, Twenty10, 20 April 2021, p 30.

⁸⁹ Submission 11, Dr Elizabeth Coombs and Ms Colette Mahieu MA, pp 2 and 5.

international legal requirements, frameworks and conventions. For instance, there is a risk that the bill would be inconsistent with the Commonwealth *Sex Discrimination Act 1984* and susceptible to legal challenge and invalidation. Anti-Discrimination NSW has also identified several legal and policy concerns in terms of the *Anti-Discrimination Act 1977* and the bill's explicit prohibition on the teaching of gender fluidity. Whilst gender fluidity is not and has never been part of any New South Wales syllabus, all New South Wales schools have legal obligations to protect and support their students including those who are same-sex attracted or transgender.⁹⁰

2.25 Mr Ghassan Kassisieh, Legal Director, Equality Australia, advised the inquiry that:

Under the Federal Sex Discrimination Act, schools have an obligation in respect of education and that they must not either directly or indirectly discriminate against a student on the basis of their gender identity. This bill then says particular things about what a teacher, school counsellor and other school staff must and must not do in respect of, well, any student but including trans and gender-diverse students—so, specifically, the provision that deals with advice, counselling, instructions—that would prevent, for example, a school counsellor from acknowledging a trans and gender-diverse student that comes to them for assistance.⁹¹

2.26 However, Mr Dallas McInerney, Chief Executive Officer of Catholic Schools NSW, repudiated the idea that parental rights and the rights of the child are mutually exclusive, such that asserting one set of rights means they must prevail over the other. Instead, Mr McInerney formed the view that the interests of the child and the interests of parents 'are not in tension'.⁹²

Stakeholder perspectives on the primacy of parental rights

2.27 As outlined in Chapter 1, the bill proposes a number of amendments to the *Education Act 1990* to recognise in law the principle that parents have a prior right when it comes to the education of their children in matters of parental primacy.

2.28 The bill defines 'matters of parental primacy' as:

... in relation to the education of children, moral and ethical standards, political and social values, and matters of personal wellbeing and identity including gender and sexuality.⁹³

2.29 The principle that parents are the first teachers and educators of their children found broad support amongst inquiry participants in favor of the bill.⁹⁴

2.30 For Mr Keysar Trad, Chief Executive Officer of the Australian Federation of Islamic Councils, this was expressed through the lens of his Islamic belief. He explained that in the Islamic faith

⁹⁰ Evidence, Ms Georgina Harrison, Group Deputy Secretary, School Improvement and Education Reform Group, NSW Department of Education, 21 April 2021, p 66.

⁹¹ Evidence, Mr Ghassan Kassisieh, Legal Director, Equality Australia, 20 April 2021, p 62.

⁹² Evidence, Mr Dallas McInerney, Chief Executive Officer, Catholic Schools NSW, 21 April 2021, p 45.

⁹³ Education Legislation Amendment (Parental Rights) Bill 2020, first print, p 3.

⁹⁴ See for example: Submission 82, Roman Catholic Archdiocese of Parramatta, p 2; Submission 70, Australian National Imams Council, p 4; Submission 78, Catholic Schools NSW, p 1.

tradition, the mother and father are the first teachers and are the two people in the life of the child who are most concerned about their welfare, interests, development and success.⁹⁵ Mr Trad elaborated on this belief, telling the committee that in his 'faith tradition it is regarded as a huge wrong, a huge sin, for a person to lose their children—to lose them to immoral type of behaviour or antisocial behaviour'.⁹⁶

2.31 In accordance with this belief, Mr Trad told the committee that schools must always involve parents in decisions surrounding students who identify as transgender or on questions of gender and sexual identity, as one example of a matter falling within the ambit of 'matters of parental primacy'.⁹⁷

2.32 In a similar vein, the Ethics and Public Policy Centre, Washington DC, made its position clear to the committee on the authority of parents to guide their child on their journey to adulthood and drew clear limitations around the 'complementary' scope, functions and purpose of schools in this process:

Parents are entrusted from the first moment of a child's life with the serious responsibility of educating and raising the child to adulthood, assisting the child in mature development of body, mind, and soul, in accord with the values and beliefs of the family; schools play a supportive and complementary role in this process, but have no right to usurp parents' roles, to undermine the child's formation in ways contradictory to parental beliefs and values, or to taint the child's educational formation by introducing contested, ideological beliefs to the educational process—especially when those ideological beliefs have the potential to cause harm to the child's development.⁹⁸

2.33 Also concurring with this view was the Council of Catholic School Parents NSW/ACT. It characterised the principle of parents as the first educators of their children as 'foundational' to its organisation, observing:

[The Council of Catholic School Parents] applauds the bill's intent to protect the place of parents as the first educators of their children. This is a foundational principle of [the Council of Catholic School Parents]. 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. [The Council of Catholic School Parents] supports legislation with the intention of ensuring that schools do not usurp the role of parents.⁹⁹

2.34 Not all inquiry participants, however, shared this view.

2.35 Ms Amber Flohm, Senior Vice President of the New South Wales Teachers Federation, provided a dissenting voice on the bill while still acknowledging in principle 'it is the right of the parent to be the educator, in its first right, of the child. There is no question about that.' Ms Flohm qualified this acknowledgement by highlighting that parents and the broader community

⁹⁵ Submission 48, Australian Federation of Islamic Councils, p 3.

⁹⁶ Evidence, Mr Keysar Trad, Chief Executive Officer, Australian Federation of Islamic Councils, 20 April 2021, p 14.

⁹⁷ Evidence, Mr Trad, 20 April 2021, p 15.

⁹⁸ Submission 56, Ethics and Public Policy Centre, Washington DC, p 10.

⁹⁹ Submission 51, Council of Catholic School Parents, p 3.

are free to engage in the curriculum development process in New South Wales – a process also informed by a broad set of stakeholders which incorporate the voices of parents.¹⁰⁰

- 2.36** Similarly, inquiry participants such as the Australian Research Alliance for Children and Youth and the Law Society of NSW suggested that any fair analysis of parental primacy should consider the broader values and ideals of Australian society as a modern, pluralistic democracy – and as a counterbalance to the bill's emphasis on the core values of parents.¹⁰¹ Whilst not denying the rights of parents in relation to their child's education, this position notes the legitimate role schools and teachers play in developing broader societal values and promoting social cohesion. As the Law Society of NSW explained:

The open-ended definition of matters of parental primacy in the Bill may also interfere with the role of schools and teachers in developing the values that are shared and enjoyed by Australians. By way of example, the Values for Australian Schooling resource series, funded by the Australian Government, notes that such values include care and compassion, responsibility, doing your best, a 'fair go', respect, understanding, tolerance and inclusion, and honesty and trustworthiness. These values are expressly encouraged by the Commonwealth Government through the National Framework for Values Education in Australian Schools. On an ordinary reading of the Bill, it is highly likely that these values would be construed as moral or ethical standards and thus precluded from being taught upon objection from a parent.¹⁰²

- 2.37** Ms Georgina Harrison of the NSW Department of Education, also drew attention to the specific and absolute version of parental primacy contained in the bill and its implications for curriculum delivery. According to Ms Harrison:

Whilst the narrative surrounding the bill has been framed around the idea of prescribing the teaching of gender fluidity in New South Wales schools, this is essentially a mandated extension for its broader purpose, which is to enable a specific version of parental primacy in relation to the education of children. This version of primacy is an absolute one: it creates a private right of veto over the New South Wales curriculum on any matter that parents may deem incompatible with their concerns around moral and ethical standards, political and social values and matters of personal wellbeing and identity.¹⁰³

- 2.38** In challenging the bill's necessity, a number of inquiry participants highlighted that s 4(b) of the *Education Act* already enacts the principle that 'the education of a child is primarily the responsibility of the child's parents'¹⁰⁴ and, therefore, parental rights are already provided for in existing legislation.¹⁰⁵ The NSW Council for Civil Liberties, for instance, contended that the primary role of parents is already recognised within legislation and departmental policy:

¹⁰⁰ Evidence, Ms Amber Flohm, Senior Vice President, New South Wales Teachers Federation, 21 April 2021, p 51.

¹⁰¹ Submission 15, Law Society of New South Wales, p 2; Submission 28, Australian Research Alliance for Children and Youth, p 3.

¹⁰² Submission 15, Law Society of New South Wales, p 2.

¹⁰³ Evidence, Ms Harrison, 21 April 2021, p 66.

¹⁰⁴ *The Education Act 1990*, s 4.

¹⁰⁵ See for example: Submission 17, The Office of the Advocate for Children and Young People and The Office of the Children's Guardian, p 2; Submission 30, NSW Teachers Federation, p 3;

... the education legislation and current departmental policy already adequately recognises the primary role of parents in their child's education. The Education Act 1900 (NSW) clarifies that in enacting the Act, Parliament has regard to the principle that 'the education of a child is primarily the responsibility of the child's parents.'¹⁰⁶

2.39 The NSW Council for Civil Liberties also highlighted other existing mechanisms and provisions to encourage and facilitate consultation with parents and parental involvement in the education their child receives, while bringing to the committee's attention other 'options' available to parents to enable them to have their say.¹⁰⁷ Likewise, Equality Australia argued that parents are already recognised as having primary responsibility for their child's education.¹⁰⁸

2.40 The Federation of Parents and Citizens Associations of NSW was unable to send a representative to the inquiry hearings on the date and at the time slot made available by the committee. They did, however, make a submission in opposition to the bill, particularly its gender fluidity components. The NSW Federation agreed with the concept of the primacy of parents in a child's education but said this is already adequately reflected in s 4(b) of the *Education Act*.¹⁰⁹

2.41 The NSW Federation further suggested that elements of the bill would be unworkable, highlighting the challenges of conforming to the values of parents in a diverse multicultural society:

The insertion of the 'provision of an education that is consistent with the moral and ethical standards and the political and social values of parents of students' is essentially unworkable. Considering Australia is a diverse multicultural society, this insertion would immediately raise a conflict over whose moral, ethical or political standards a school is expected to conform to.¹¹⁰

2.42 Acknowledging parental rights as paramount, Ms Georgina Harrison of the NSW Department of Education cited two examples of how such rights are safeguarded in existing policy frameworks and processes within the education system: firstly, through opportunities for parental input into curriculum design and development; and secondly, through local-level feedback and complaint processes. She explained:

In terms of existing arrangements, the rights of parents to guide their children's morals and values remain paramount. These rights are protected by and reflected in the processes of public consultation that have gone into the development of the Australian curriculum and the New South Wales syllabuses. Parents' rights are further safeguarded at the local level by processes of communication, feedback and complaint within school communities. The department acknowledges instances from time to time of non-compliance. However, these are predominantly isolated and typically inadvertent.¹¹¹

Submission 55, Gay and Lesbian Rights Lobby, p 9; Submission 38, Federation of Parents and Citizens Associations of NSW, p 2.

¹⁰⁶ Submission 42, NSW Council for Civil Liberties, p 18.

¹⁰⁷ Submission 42, NSW Council for Civil Liberties, p 18.

¹⁰⁸ Submission 47, Equality Australia, p 9.

¹⁰⁹ Submission 38, Federation of Parents and Citizens Associations of NSW, p 2.

¹¹⁰ Submission 38, Federation of Parents and Citizens Associations of NSW, p 2.

¹¹¹ Evidence, Ms Harrison, 21 April 2021, p 66.

- 2.43** Mr Ghassan Kassisieh from Equality Australia expressed a view that the effect of the bill could be to give licence to students whose parents held discriminatory views to express these views with impunity in a school environment:

My concern there is 17D prohibits any person at a government school from providing any instruction in matters of parental primacy if the parents object to that child's receiving that instruction. So how it would play out is a child who bullies another child expressing a particular social—so the definition of parental primacy then rolls in a parent's social views. If a child was expressing social views to another child that was sexist, ableist, homophobic, racist—whatever they are—and a parent then objected to their child being told not to express those views, that instruction could not be given because the parents had objected to their child being given those values that contradicted their own.¹¹²

- 2.44** The Human Rights Law Alliance – a law firm that specialises in freedom of religion, thought, speech, and conscience – did not concur with these views, arguing instead that the *Education Act* as it currently stands sparsely covers parental rights and provides 'scant protection' for parents.¹¹³ This was a position shared by the Anglican Church Diocese of Sydney.¹¹⁴

- 2.45** In seeking to reassert the primacy of parental rights, the bill proposes a number of statutory protections for parents as a means to legislate this principle. Stakeholder perspectives on these proposed protections are outlined in the following paragraphs.

On the relationship between parents and schools

- 2.46** The Centre for Emotional Health said of the bill that '[i]t sets schools against parents rather than encouraging them to work together in the interest of children's social, moral, and gender development.'¹¹⁵

- 2.47** Other submissions recognised the need for support for parents and teachers around this conversation with teachers having a key role challenging discrimination in the classroom and also supporting parents and students more broadly.¹¹⁶

- 2.48** The NSW Teachers Federation recognised the need for:

strong partnerships between teachers and parents which they have, and need to continue to have, to enhance the child's learning. These rights are already enshrined in legislation through the Education Act. The professional judgement of teachers, their qualifications, their training, their expertise, their skills and their experience ensures that they are able to address these matters as they arise in their classrooms within our professional standards, our curriculum, our policy and the legislative frameworks in which we operate.¹¹⁷

¹¹² Evidence, Mr Kassisieh, 20 April 2021, p 63.

¹¹³ Submission 35, Human Rights Law Alliance, p 3.

¹¹⁴ Submission 27, Anglican Archdiocese of Sydney, p 9.

¹¹⁵ Submission 6, Centre for Emotional Health, Macquarie University, p 1.

¹¹⁶ Evidence, Mr Jack Whitney, Co-Convenor, NSW Gay and Lesbian Rights Lobby, 20 April 2021, p 32.

¹¹⁷ Evidence, Ms Flohm, 21 April 2021, p 48.

- 2.49** The role of schools and families was viewed as complementary in forming young people's identities – 'School, as a forum for socialization, opens up access to different perspectives; thus, States and families have complementary roles that are not mutually exclusive with regard to sexual education.'¹¹⁸
- 2.50** This partnership between families and schools was seen as undermined by a policy that switched focus from young people to 'resolv(ing) conflicts between and among parents as to what is taught to their children.'¹¹⁹ Another constraint was resourcing to ensure that 'the people who work hand in glove to bring up our children, to raise them and to educate them actually know each other and understand the priorities they each have.'¹²⁰

The requirement for teaching to be non-ideological

- 2.51** As outlined in Chapter 1, if passed into law, the bill would create a requirement for teaching to consist of strictly non-ideological instruction in matters of parental primacy. At proposed s 17B, the bill states:

The words non-ideological instruction are to be taken to include general teaching about matters of parental primacy as distinct from advocating or promoting dogmatic or polemical ideology. For the avoidance of doubt, this section does not apply to special religious education provided under section 32 of this Act.¹²¹

- 2.52** A number of inquiry participants drew a parallel between the proposed s 17B provisions and existing provisions already in force within the *Education Act* which prohibit sectarian indoctrination. These are set out at s 30:

30 Secular instruction

In government schools, the education is to consist of strictly non-sectarian and secular instruction. The words secular instruction are to be taken to include general religious education as distinct from dogmatic or polemical theology.¹²²

- 2.53** The Australian Christian Lobby suggested that this common wording is appropriate and outlined the case for treating ideological instruction in matters of parental primacy the same way as the *Education Act* treats sectarian education – that is, to proscribe its teaching:

We consider that this approach has merit. As is the case for religious beliefs and convictions, there are a variety of views and perspectives in Australian society on ethical and moral issues and political values. So, just as the *Education Act* prohibits sectarian religious indoctrination, it should also prohibit imposition of partisan and controversial ideologies in the classroom. On this basis, we commend the use of an identical approach to require ideologically non-partisan education as has been successful for requiring non-sectarian religious education.¹²³

¹¹⁸ Evidence, Ms Burke, 21 April 2021, p 63.

¹¹⁹ Evidence, Mr Kassisieh, 20 April 2021, p 57.

¹²⁰ Evidence, Ms Penny Dakin, Chief Executive Officer, Australian Research Alliance for Children and Youth, 20 April 2021, p 32.

¹²¹ Education Legislation Amendment (Parental Rights) Bill 2020, first print, p 4.

¹²² *Education Act 1990*, s 30.

¹²³ Submission 16, Australian Christian Lobby, p 4.

2.54 This position was shared by Catholic Schools NSW, with its Chief Executive Officer, Mr Dallas McInerney, impressing upon the committee that s 30 of the *Education Act* provides a precedent for explicitly prohibiting certain teachings:

... I think there is currently in the Act an explicit prohibition on the teaching or advancing of religion in a dogmatic or a polemical sense. So to the extent that there was any concern or hesitation that there should be areas inside a classroom or subject matters or topics carved out, if you like, there is already a precedent there.¹²⁴

2.55 For Catholic Schools NSW and others inquiry participants such as the Human Rights Law Alliance,¹²⁵ s 30 sets a clear precedent for legislative restrictions on what can and cannot be taught in classrooms.

2.56 In expressing their support for this and other protections in the bill, the Council of Catholic Schools Parents NSW/ACT commented that '[w]hen people other than parents intervene in these areas of parental primacy and promote ideologies that are not consistent with parents' core values, then they undermine and usurp parents' role as their children's first educators.'¹²⁶

2.57 Likewise, Ms Nikki Aben, NSW Coordinator for the Australian Christian Lobby, saw significant value and merit in the bill's provisions, telling the committee they seek to enact 'suitable and robust protections to recognise the right of parents in their children's education and to mandate that education of children to be ideology free.'¹²⁷

2.58 The Institute for Civil Society expressed qualified support for proposed s 17B, suggesting amended wording to better suit the bill's policy objectives:

Much teaching is ideological in the sense that it is based on or relates to a system of ideas and ideals, for example concerning economic or political theory and policy. We recommend that the provision would better suit the policy objectives of the Bill if it provided that:

17B In government schools, teaching on matters of parental primacy must:

(a) not involve advocating or promoting dogmatic or polemical ideology; and

(b) acknowledge that there may be different views on the matter and that students should consider their parents' views on the matter and discussing the matter with their parents.¹²⁸

Parental consultation on matters of parental primacy

2.59 Requirements for consultation with parents on matters of parental primacy are dealt with at proposed s 17E of the bill:

17E Consultation on matters of parental primacy

¹²⁴ Evidence, Mr McInerney, 21 April 2021, p 41.

¹²⁵ Evidence, Mr John Steenhof, Principal Lawyer, Human Rights Law Alliance, 20 April 2021, p 35.

¹²⁶ Evidence, Mr Peter Grace, Executive Director, Council of Catholic Schools Parents, 21 April 2021, p 35.

¹²⁷ Evidence, Ms Nikki Aben, NSW Coordinator, Australian Christian Lobby, 20 April 2021, p 2.

¹²⁸ Submission 66, Institute for Civil Society, p 7.

At the beginning of each school year, all government schools must provide a summary of the content being taught in relevant courses of study about matters of parental primacy by publishing that summary on the school's website and notifying parents. As part of this notification, government schools must consult with the parents of students about any instruction in relation to matters of parental primacy and must teach courses of study consistently with the principles in section 4, the objects in section 6 and the obligations in sections 17A and 17B.¹²⁹

2.60 The committee noted the following expressions of support for this provision:

- In a joint submission to the inquiry, the Catholic Archdiocese of Sydney and the Maronite Eparchy of Australia registered their support for s 17E, describing it as 'necessary for the exercise of parental rights.'¹³⁰
- The Council of Catholic School Parents NSW/ACT advised the committee of 'overwhelming support' for 17E, observing that parents (as first educators and primary moral guardians) deserve to be fully informed in advance about what their child is being taught.¹³¹
- The Australian Christian Lobby considered this and other amendments to the *Education Act* as being instrumental in keeping parents fully informed of all content – especially material which touches on matters of parental primacy – and applauded them as 'highly welcome changes.'¹³²

2.61 The extent to which a consultative framework already exists in departmental policy formed a key point of contention in inquiry evidence. Ms Georgina Harrisson of the NSW Department of Education, referred the committee to the department's *Controversial Issues in Schools Policy* (as outlined in Chapter 1) as evidence of existing procedures and mechanisms in place for parents to be engaged around controversial issues ahead of time when they are taught in schools.¹³³ This embeds in departmental policy the expectation that:

...schools will share ahead of time what they are planning to touch on when it is a controversial issue and provide guidance in those procedures to how controversial issues is defined and should be considered. We request that schools seek permission for parents and give them the opportunity to opt out if that is not something they want their child to be part of. And that they are having that consultative engagement with their community around those issues. They are our expectation of that policy and how that should operate in practice.¹³⁴

2.62 When asked if the department has a list of issues it considers controversial, Ms Harrisson indicated that the *Controversial Issues in Schools Policy* provides some guidance around the nature of such issues, however, since what is considered controversial is context-specific, the department does not maintain a 'no-go list of areas' that are off-limits for discussion.¹³⁵

¹²⁹ Education Legislation Amendment (Parental Rights) Bill 2020, first print, p 5.

¹³⁰ Submission 46, Catholic Archdiocese of Sydney and the Maronite Eparchy of Australia, p 9.

¹³¹ Submission 51, Council of Catholic School Parents NSW/ACT, p 7.

¹³² Submission 16, Australian Christian Lobby, p 4.

¹³³ Evidence, Ms Harrisson, 21 April 2021, p 72.

¹³⁴ Evidence, Ms Harrisson, 21 April 2021, p 74.

¹³⁵ Evidence, Ms Harrisson, 21 April 2021, p 75.

- 2.63** Several inquiry participants against the bill pointed to this existing policy framework in a bid to discredit arguments about the bill's necessity. For example:
- The Women's Electoral Lobby submitted that the bill ignores the 'extensive opportunities' that already exist for parents and guardians to engage with their local schools, raise concerns or objections about classroom content and withdraw their children from any instructions they find objectionable. These include opportunities and protections afforded to parents under the *Controversial Issues in Schools Policy*.¹³⁶
 - The NSW Council for Civil Liberties highlighted the obligations incumbent upon principals and schools to ensure parents and carers are informed about the participation of their children in curriculum delivery or school programs addressing controversial issues, in accordance with the policy.¹³⁷
 - Ms Amber Flohm of the NSW Teachers Federation commented that the policy already enables parents to raise concerns with schools and that parents do so 'frequently', resulting in issues being resolved and conflict being avoided.¹³⁸
 - The Independent Education Union maintained that 'schools already take significant steps to ensure parents are suitably informed of as to the nature and timing of any potentially challenging content that is programmed to be taught through the year.'¹³⁹
- 2.64** The existing system appears to deal appropriately with complaints that are raised, and the very small number of these that are escalated in relation to LGBTI issues provides some evidence that this is not a looming problem for most parents in most schools - from a cohort of 800,000 students and their families around 10 complaints over a three year period were escalated to the department.¹⁴⁰ Given the significant media attention on these issues it is not considered likely that there are even more substantial claims that aren't being made because of a lack of awareness of the complaints procedure.
- 2.65** Notably, on the issue of consultation with parents, FamilyVoice Australia went even further than the 17E provisions in recommending that the NSW Department of Education establish a 'Parent-School Curriculum Consultative Committee' as a way of engaging parents in curriculum development.¹⁴¹
- 2.66** Other concerns raised about s 17E include that is unworkable and unnecessary because the New South Wales curriculum is already publicly available for all to read.¹⁴² Others suggested that it would add to the regulatory burden on schools¹⁴³ and would be impractical.¹⁴⁴

¹³⁶ Submission 50, Women's Electoral Lobby, p 4.

¹³⁷ Submission 42, New South Wales Council of Civil Liberties, p 19.

¹³⁸ Evidence, Ms Flohm, 21 April 2021, p 50.

¹³⁹ Submission 24, Independent Education Union of Australia NSW/ACT Branch, p 4.

¹⁴⁰ Evidence, Ms Harrison, 21 April 2021, p 75.

¹⁴¹ Submission 9, FamilyVoice Australia, p 3.

¹⁴² See for example: Submission 63, Amnesty International, p 12.

¹⁴³ See for example: Submission 42, NSW Council for Civil Liberties, p 16; Submission 55, Gay and Lesbian Rights Lobby, p 8.

¹⁴⁴ See for example: Evidence, Ms Flohm, 21 April 2021, p 49.

Additional administrative burdens created by the bill

2.67 Both NESA and the NSW Department of Education conceded that the bill, if passed, would impose additional administrative burdens on the agencies. In response to a question about whether NESA had sufficient resources to take on the additional investigative functions contemplated by the bill, NESA's Chief Executive Officer, Mr Paul Martin responded: 'At the moment I would have to say that NESA would not—depending on the volume of search complaints and such accusations, no.'¹⁴⁵

2.68 While then Group Deputy Secretary of the Department of Education, Ms Georgina Harrison, conceded: 'In its current form it is considered likely that the bill would impose additional operational overheads for schools and increase the administrative burden for individual teachers.'¹⁴⁶

2.69 Mr Mark Northam from the Independent Education Union of Australia (NSW/ACT Branch) agreed:

that it is an onerous and burdensome addition to what schools are already doing and would serve little purpose. Because the very nature of teaching— and I taught for 20 years prior to moving into working with the union—is that many questions emerge from students' mouths at a time when you might not be anticipating or even be able to predict same. It just happens and the professional judgement of teachers managed that situation.¹⁴⁷

2.70 While Mr Ghassan Kassisieh from Equality Australia observed:

The red tape involved in submitting an annual summary of everything taught that may involve moral and ethical standards, political and social values, and matters of personal wellbeing and identity is reason alone why this bill cannot work in practice.¹⁴⁸

Right to withdraw a child from certain teaching

2.71 If passed into law, the bill would give parents the right to object to their child receiving instruction in matters of parental primacy. At proposed s 17D, the bill provides that:

No child at a government school is to be required to receive any instruction in matters of parental primacy if the parents of the child object to the child's receiving that instruction.¹⁴⁹

2.72 Several inquiry participants likened this provision to s 26 of the *Education Act 1990*, which gives parents the right to withdraw their child from certain teaching where the parent conscientiously objects on religious grounds:

¹⁴⁵ Evidence, Mr Paul Martin, Chief Executive Officer, NSW Education Standards Authority, 21 April 2021, p 72.

¹⁴⁶ Evidence, Ms Harrison, 21 April 2021, p 67.

¹⁴⁷ Evidence, Mr Mark Northam, Secretary, Independent Education Union of Australia (NSW/ACT Branch), 21 April 2021, p 49.

¹⁴⁸ Evidence, Mr Kassisieh, 20 April 2021, p 57.

¹⁴⁹ Education Legislation Amendment (Parental Rights) Bill 2020, first print, p 5.

26 Certificate of exemption from attending particular classes

- (1) The parent of a child enrolled at a government school may give the Secretary written notice that the parent conscientiously objects on religious grounds to the child being taught a particular part of a course of study.
- (2) The Secretary may accept any such objection and grant a certificate exempting the child from attending classes relating to the part of the course concerned if satisfied that the objection is conscientiously held on religious grounds.
- (3) A certificate of exemption under this section may be given subject to conditions.
- (4) A certificate of exemption under this section may be cancelled by the Secretary.¹⁵⁰

2.73 As part of its consideration of ss 17D and 17E, the committee interrogated the adequacy of the existing s 26 provisions. Opinion was divided between inquiry participants who supported the bill and those who opposed it.

2.74 Among the bill's proponents, the Institute for Civil Society was arguably the most definitive in questioning the adequacy of s 26, submitting that '[t]he existing provision purporting to protect parental rights in section 26 of the Education Act 1990 (NSW) is inadequate and in practice gives parents no rights at all'.¹⁵¹ The Institute noted that granting a certificate of exemption is at the Secretary's discretion and can be cancelled at will. Moreover, it was argued that the provision has never been fully operationalised:

The provision gives the Secretary a discretion, it does not give parents a right to have their children excused from classes on the basis of a religious conscientious objection. Moreover the Secretary may add any conditions to the certificate and cancel it at will. Most significantly, the provision has never been effectively operationalised. To use it parents would need to be prominently advised of their right to object, notified in advance about the parts of a course of study to which they might conscientiously object on religious grounds, and provided with a simple mechanism, like an online form to lodge their objection.¹⁵²

2.75 In the Institute's opinion, ss 17D and 17E of the bill provides a superior mechanism to the existing s 26 provision by mandating that education in government schools must respect the primacy of parents in relation to matters of parental primacy. Taken together, it was considered that these proposed provisions effectively safeguard the right of parents to be consulted on any content that touches on matters of parental primacy and to exempt their children from classes where the parent objects to those matters.¹⁵³

2.76 In light of the Institute's evidence, the committee tested support for the idea of an on-line portal to make it easier for parents to exercise their s 26 rights and protections under the *Controversial Issues in Schools Policy*. Mr Keysar Trad of the Australian Federation of Islamic Councils expressed

¹⁵⁰ *Education Act 1990*, s 26.

¹⁵¹ Submission 66, Institute for Civil Society, p 5. For other concerns about the operations of s 26, see also: Submission 27, Anglican Church Diocese of Sydney, p 3.

¹⁵² Submission 66, Institute for Civil Society, pp 5-6.

¹⁵³ Submission 66, Institute for Civil Society, p 6.

support for this proposal, as did Mr Andrew Wall, National Political Director of the Australian Christian Lobby, who agreed that it would make it easier for parents.¹⁵⁴

2.77 Other inquiry participants were not as convinced of the value of this proposal. Ms Penny Dakin, Chief Executive Officer of the Australian Research Alliance for Children and Youth, questioned its intent, telling the committee that:

... the provision to remove a child from a discussion of ideas, whether it be online or through a more formal process, it is probably too specific for us to have an actual opinion on, but I do question the notion of being able to choose which ideas are the ones that we should be listening to... I think there is a danger in not being able to talk about ideas.¹⁵⁵

2.78 Dr Kristen Noble, the Alliance's Principal of Collaboration and Engagement, was similarly circumspect about the proposal, suggesting that if children are exempted from learning about ideas not everyone can agree on, they will miss out on the life skills to participate in society further 'down the track'.¹⁵⁶

2.79 Ms Jain Moralee, Co-Executive Director of the Twenty-Ten Association, did not support the proposal on the basis that it risks depriving children of the opportunity to receive a full education:

I think that really does run the risk of parents being able to remove their children from an educational environment, and it effectively removes the opportunity for their own child to receive a full education that they otherwise would if they were not pulled out of school. I think that we do not support parents being able to take their children out of school under anything other than the existing provision.¹⁵⁷

2.80 Some inquiry participants considered this aspect of the bill highly problematic, for example due to its potential to stigmatise children from diverse families and create an 'administrative nightmare' for schools.¹⁵⁸ Similarly, the Australian Psychological Society submitted that allowing parents to withdraw their children from ideas they find objectionable would serve to deprive them from hearing and talking about different perspectives on important issues and potentially stifle child development.¹⁵⁹

2.81 There were also serious concerns raised that the bill would cause harm to young people's ability to get an education. The main mechanism was by creating an unsafe learning environment which

¹⁵⁴ Evidence, Mr Trad, 20 April 2021, p 19; Evidence, Mr Andrew Wall, National Political Director, Australian Christian Lobby, 20 April 2021, p 5.

¹⁵⁵ Evidence, Ms Dakin, 20 April 2021, p 28.

¹⁵⁶ Evidence, Dr Kristen Noble, Principal of Collaboration and Engagement, Australian Research Alliance for Children and Youth, 20 April 2021, p 28.

¹⁵⁷ Evidence, Ms Moralee, 20 April 2021, p 27.

¹⁵⁸ Submission 12, Rainbow Families, p 12.

¹⁵⁹ Submission 18, Australian Psychological Society, p 6.

'severely compromises a students' educational outcomes'¹⁶⁰ and further when young people feel unsafe their ability to concentrate and focus, and thus their potential to excel, is cut off.¹⁶¹

2.82 Concerns were raised by the Women's Electoral Lobby that the provisions allowing children to be removed from learning by small groups of parents would undermine NSW public schools' capacity to provide quality, mainstream, universally accessible and secular education.¹⁶² Amnesty International also submitted that the bill contravenes the government's obligation to provide an education for all children.¹⁶³

2.83 The question was asked by Mr Teddy Cook, Vice President of the Australian Professional Association for Trans Health, in his evidence to the committee:

Do you want to create a system where you are making it easier for people to not get an education? That is the question I would ask. If you want to make it easier to take kids out of school, then fine. But I do think the place for kids is school, as much as possible.¹⁶⁴

2.84 While Mr Ghassan Kassisieh from Equality Australia highlighted significant practical concerns that the bill provides no mechanism as to how a teacher is supposed to reconcile an objection from one parent which is not supported by the other parent of the same child.¹⁶⁵ Nor does the bill provide a mechanism as to how a teacher is supposed to reconcile an objection from one parent not to provide an instruction to their child on a particular matter, when that child's behaviour is otherwise impacting on another child's wellbeing and safety at school.¹⁶⁶

2.85 Several of the bill's opponents, such as the NSW Council for Civil Liberties,¹⁶⁷ suggested that the bill's provision to enable parents to withdraw their child are unnecessary because the *Controversial Issues in Schools Policy* already gives parents the option of withdrawing their child from activities or instruction that touches on controversial matters. Addressing suggestions the existing process is difficult for parents to navigate, Associate Professor Ferfolja of the School of Education at Western Sydney University, told the committee that it is not complex and 'the information and the opportunity for parents to remove their child is well articulated in that document.'¹⁶⁸

¹⁶⁰ Submission 14, ACON, p 6.

¹⁶¹ Evidence, A/Prof Jacqueline Ullman, Associate Professor, Adolescent Development, Behaviour, Well-Being and Pedagogical Studies, Western Sydney University, 21 April 2021, p 22.

¹⁶² Submission 50, Women's Electoral Lobby, p 3.

¹⁶³ Submission 63, Amnesty International, p 4.

¹⁶⁴ Evidence, Mr Teddy Cook, Vice President, Australian Professional Association for Trans Health, 20 April 2021, p 56.

¹⁶⁵ Evidence, Mr Kassisieh, 20 April 2021, p 59.

¹⁶⁶ Evidence, Mr Kassisieh, 20 April 2021, p 63.

¹⁶⁷ Submission 42, New South Wales Council of Civil Liberties, p 19. See also: Submission 7, Mr Greg Horne, p 5.

¹⁶⁸ Evidence, A/Prof Tania Ferfolja, Associate Professor, Primary Education, School of Education, Western Sydney University, 21 April 2021, p 19.

2.86 Further, one of the concerns about s 17D is how it would work in practice: ‘This veto clause arms any parent with particular views with the ability to prevent a teacher disciplining their child when they bully another who is different’.¹⁶⁹

2.87 While education is not to be provided with a particular ideological bent, there is a clear value on debate and discussion including the exploration of issues.¹⁷⁰ This exposure to a range of belief systems and ideologies is considered beneficial for student development, and part of fostering a socially cohesive diverse society.¹⁷¹ Conversely legislating this bill was seen as endorsing prejudice and threatening social cohesion.¹⁷²

2.88 Opponents of the bill argued that the focus should be not on ensuring all content accords with parental values but that:

students be supported to process any emotional response to content that does not coincide with their core values, and that teachers are encouraged to recognise the validity of their response, which may be based on the core values of their parents, or their own core values. Schools should be a safe place where students are encouraged to consider different perspectives and learn to disagree in a safe, respectful way.¹⁷³

2.89 Concerns were also raised that prohibiting the teaching of ideological values would be used to deny 'students a quality education on contemporary and important topics including comprehensive sexuality education, climate change, Australian history and racism'.¹⁷⁴

2.90 Multiple submissions referenced the damaging experience in England after an equivalent to 17D was introduced by the Thatcher Government in the 1980s.¹⁷⁵

2.91 In contrast to this evidence, Mr Andrew Wall of the Australian Christian Lobby argued the existing provisions are not sufficient as they place the onus of responsibility overwhelmingly on parents, when it should in fact be a teacher-initiated process. He explained:

The onus is on the parent to first inform themselves proactively of what is being delivered in the classroom and then make an informed decision on religious grounds as to whether or not they make that application. The bill put forward by Mr Latham puts the onus back on the classroom teacher to be the first to inform parents of social or moral content in the classroom curriculum, so parents are proactively informed by the school. What is being achieved in the bill as it stands is that the onus goes back onto the school and the education system to adequately inform parents, which is a step in the right direction, rather than the onus being on parents to inform themselves. In modern society, parents are busy...Many parents do not have that capacity, whereas the proactive onus on the teacher to inform parents would serve to uphold that moral and social licence that teachers have been given to educate children.¹⁷⁶

¹⁶⁹ Evidence, Mr Kassisieh, 20 April 2021, p 58.

¹⁷⁰ Evidence, Ms Harrison, 21 April 2021, p 70.

¹⁷¹ Submission 28, Australian Research Alliance for Children & Youth, p 5.

¹⁷² Submission 53, Social Justice in Early Childhood Foundation, p 3.

¹⁷³ Submission 17, The Office of the Advocate for Children and Young People and The Office of the Children's Guardian, p 2.

¹⁷⁴ Submission 23, Family Planning NSW, p 3.

¹⁷⁵ See for example: Submission 43, Australian Professional Association for Trans Health, p 5.

¹⁷⁶ Evidence, Mr Wall, 20 April 2021, pp 4-5.

Committee comment

2.92 The committee agrees with Minister Mitchell's public declaration on how best to address the systemic problems within the state's education system, as articulated in her *Sydney Morning Herald* opinion piece of 7 December 2019:

...we must ensure what is being taught in the classroom reflects evidence-based best practice. The gradual overcrowding of the curriculum in some ways is not surprising. Too often, the curriculum has become a depository for content aimed at fixing societal ills. The reality is that instilling values sets and encouraging positions on social and political issues is not the job of schools. It is the job of parents. A school's job is to equip kids with the knowledge needed to successfully engage with the world as independent thinkers.¹⁷⁷

2.93 The committee strongly supports this point of view but laments the apparent failure to enforce it in schools. Schools should teach classroom material in a manner consistent with the values of parents. The focus of New South Wales schools must be on academic attainment and vocational qualifications.

2.94 The committee recognises the primary role that parents play as the first educators and moral guardians of their children. Associated rights and liberties undeniably flow from this. Teachers come and go in children's lives. Parents are a constant. They provide love, care and support on so many levels to guide them on their journey to adulthood. When schools interfere with or usurp the role of parents in matters of parental primacy, this is essentially an attack on their right to ensure the education and moral formation of their child conforms with their own convictions. The bill is an essential protection to prevent the alarming examples of schools overreach that the committee heard in evidence.

2.95 In the committee's view, the protections within the bill have solid grounding and justification in international human rights conventions. The committee considers parental rights to be of critical importance, a fundamental human right to ensure the education of one's child is consistent with one's convictions. In this respect, legislating to re-assert and restore parental rights – reversing the worry trend of parents being marginalised and excluded from their child's education – will bring into effect the NSW Government's international obligations under various human rights instruments, most notably the International Covenant on Civil and Political Rights.

2.96 The committee also finds the current system of leaving it to schools to determine what are controversial issues under the policy to lack clarity, places an additional burden on individual principals. Instead, the committee believes providing a clear framework, including a specific list of issues that parents must be consulted on, will provide clarity for principals, teachers, parents and school communities.

2.97 The committee agrees with the Parliamentary Secretary for Education, Kevin Conolly, who wrote on 5 March 2021 to a protestor against the bill (Alastair Lawrie from the Public Interest and Advocacy Centre) as follows:

¹⁷⁷ Sarah Mitchell, 'For 20 years our students have been slipping – but money is not the answer,' *Sydney Morning Herald*, 7 December 2019.

The first thing to state about the Bill is that it gives effect to internationally recognised human rights explicitly stated in international agreements to which Australia (like nearly all nations) is a signatory: Article 18, Part 4 of the International Covenant on Civil and Political Rights; Article 5 of the Convention on the Rights of the Child; and Article 26(3) of the Universal Declaration of Human Rights ... (The bill) is based on the common sense proposition that it is parents who are best placed and most likely to focus on the best interest of their child, rather than teacher unions, academics or activists with their own political agenda.¹⁷⁸

Recommendation 1

That the Legislative Council proceed to debate the Education Legislation Amendment (Parental Rights) Bill 2020 and the committee comments and stakeholders' views expressed in this report be addressed during debate in the House.

Recommendation 2

That, in recognition of its obligations under the International Covenant on Civil and Political Rights, the NSW Government support *all* parental primacy provisions and protections in the Education Legislation Amendment (Parental Rights) Bill 2020 including:

- the statutory recognition of parental primacy in definition, object and principle within the *Education Act 1990* and related statutes;
- the requirement for teaching to be non-ideological;
- the enhanced consultation requirements with parents; and
- the right for parents to withdraw their children from teaching that is inconsistent with their core values and convictions.

Recommendation 3

That, in order to strengthen the provisions in Recommendation 2, and for the purpose of consistency in the *Education Act 1990*, the NSW Government support amending:

- a) Section 26 to broaden conscientious objections by parents beyond 'religious grounds' to cover the teaching of political and ideological dogma to their children; and
- b) Section 30 to broaden the current ban beyond religious dogma to cover political and ideological dogma.

2.98 In the committee's view, the *Controversial Issues in Schools Policy* is deficient on a number of counts, primarily in its failure to define which issues are controversial. As the committee heard in evidence, what is considered controversial is context-dependent and involves inherently subjective judgements: what one school deems to be controversial, another may not. Protections afforded to parents under this policy are only triggered when a school exercises its discretion to designate a certain issue 'controversial'. In the committee's view, this lack of clarity and definition undermines the entire spirit and intent of the policy in respecting parents' convictions, leaving a concerning gap in its procedural framework.

¹⁷⁸ Alastair Lawrie, *NSW Liberal Parliamentary Secretary for Education supports bill to erase trans kids*, March 2021, <https://alastairlawrie.net/2021/03/11/nsw-liberal-parliamentary-secretary-for-education-supports-bill-to-erase-trans-kids/>.

- 2.99** The committee therefore recommends that the NSW Government urgently review and overhaul the *Controversial Issues in Schools Policy* to afford greater priority to parental rights and provide robust protections for parental authority. Evidence to the committee attests to the need for much greater openness and transparency about what is being taught in the classroom as well as enhanced school-initiated processes for parents to withdraw their child from teaching they find objectionable. These processes should shift the onus away from parents relying on making their own enquiries, to instead schools proactively informing parents and enabling the exercise of their rights. Most importantly, to eliminate any uncertainty, the committee recommends that the NSW Department of Education add to the policy a list of issues known to be controversial and divisive within schools communities. These should be issues where a significant proportion of public opinion (including parental opinion) is uncomfortable about the teaching of certain material, especially when taught from just one perspective (such as identity politics and gender fluidity). The NSW Department of Education should update the list on a regular basis.
- 2.100** The NSW Government should also make a concerted effort to inform parents of their rights under the *Controversial Issues in Schools Policy*. This should include a notification at the beginning of each school year to all parents/guardians by schools and the Department.
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Recommendation 4

That the NSW Government urgently review and overhaul the *Controversial Issues in Schools Policy* to afford greater priority and deference to parental rights and to provide, procedurally, more robust protections for parental authority. This reform should include the addition of a list of issues known to be controversial and divisive within school communities, and to be updated by the Department of Education on a regular basis. These should be issues where a significant proportion of public opinion (including parental opinion) is uncomfortable about the teaching of certain material, especially when taught from just one perspective (such as identity politics and gender fluidity). The revised policy should be consistent with and (where relevant) give effect to the parental primacy provisions and protections in the bill in accordance with Recommendation 2 above.

Furthermore, the committee recommends that the NSW Government make a concerted effort to inform parents of their rights under the *Controversial Issues in Schools Policy*. This should include a notification at the beginning of each school year to all parents/guardians by schools and the Department of Education.

- 2.101** The inquiry raised other issues about the relationship between teachers and parents in schools. The committee believes more needs to be done to improve parents' understanding of what their children are being taught and how their children are progressing academically. When parents send their children to school each day teachers have a massive duty of care and trust in looking after other people's children. They must do so consistent with the values and aspirations of the families involved.
- 2.102** In the committee's opinion, it is not sufficient for teachers to say 'we know best' or 'inside the school grounds only teachers know what to do'. Schools must provide as much information as possible to parents about what is happening with their children. Generally, due to their fee-paying nature, non-government schools in New South Wales have been better at this than government schools. Across the system, standards and practices of parental communications
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by schools are uneven. Some government schools use their IT systems to provide parents with weekly or fortnightly updates about classroom attainment and other activities. Elderslie Public near Camden is an example of this best practice approach. At the other extreme, some schools are openly hostile to parents, telling them that between 9 and 3 each day they should leave the school alone to get on with its work.

2.103 It is our view that government policy should address this problem. Thus the committee recommends two further reforms:

1. Government schools should display on their website a regular update of the text books and learning materials used in their classrooms, involving all student instruction organised by school staff and external consultants, excluding student presentations. Learning materials should be defined as any material used for student instruction, including, but not limited to, textbooks, other reading materials, videos, digital materials, websites and other online applications.
2. The NSW Department of Education should establish mandatory State-wide protocols and standards for maximising school communications with parents. With advanced information technology, there is no excuse for schools failing to frequently update parents on progress with their children. The Department should benchmark existing school best practice in this regard and require all schools to reach this standard.

Recommendation 5

That the NSW Government make it mandatory for all government schools to display on their website and update regularly, a clear outline of what they are teaching, with an associated list of text books and other learning materials used in their classrooms, including instruction and materials provided by external consultants, in accordance with the committee's conclusions set out in this report.

Recommendation 6

That the NSW Government establish mandatory State-wide protocols and standards for maximising school communications with parents. For this purpose, the NSW Government should benchmark existing school best practice in this regard and require all schools to reach this standard.

Gender fluidity

2.104 As noted in Chapter 1, the bill seeks to prohibit the teaching of gender fluidity in all Kindergarten to Year 12 courses of study and in teacher training and accreditation and course development. This section explores stakeholder perspectives on this element of the bill.

Gender fluidity as a social construct

2.105 The bill defines gender fluidity as:

... gender fluidity means a belief there is a difference between biological sex (including people who are, by their chromosomes, male or female but are born with disorders of sexual differentiation) and human gender and that human gender is socially constructed rather being equivalent to a person's biological sex.¹⁷⁹

- 2.106** In evidence submitted to the committee in support of the bill, it was asserted almost unanimously that gender fluidity has no empirical or scientific evidence base. This formed the basis for one of the arguments justifying its exclusion from the state's classrooms, where a crucial test of what should and should not be taught to students is the existence or absence of a settled, scientifically sound evidence base.
- 2.107** The committee heard evidence on the ideological and contested nature of gender fluidity. Ms Kirralie Smith, National Spokeswoman for Binary Australia, characterised gender fluidity as 'an ideology rooted in feelings and stereotypes that have no scientific basis.'¹⁸⁰ Similarly, Ms Mary Hasson JD, Kate O'Beirne Fellow at the Ethics and Public Policy Centre, Washington DC, defined it as an 'ideological, contested and evolving set of beliefs...that has no place in the primary and secondary educational environment.'¹⁸¹ Mr Patrick Byrne, National President of the National Civic Council, considered gender fluidity 'an ideology and a very confused one with no clear parameters about it...it is highly contested and unscientific.'¹⁸²
- 2.108** Adding further weight to this view, Professor Dianna Kenny – former Professor of Psychology at Sydney University and expert in child development, educational psychology and developmental psychopathology – warned of the dangers of teaching what she labelled 'a fallacious, illogical, unscientific, and seriously damaging ideology.'¹⁸³ According to Professor Kenny, it is based on an erroneous account of human nature and contains unsubstantiated assertions, generalisations, inconsistencies and internal contradictions. In summary, Professor Kenny considered it to have the same degree of scientific merit as creationism, flat earth theory and anti-vaxxer ideology.¹⁸⁴
- 2.109** The contention that gender fluidity is highly contested and ideological, rather than scientific fact was also repeated in several submissions to the inquiry.¹⁸⁵
- 2.110** Such understandings of gender were contrasted with the scientific reality of sex as taught in high school biology. Bringing this contrast into sharp focus, a stage 6 science text book entitled *Biology in Focus: Year 12*, explains the science behind the biological reality of sex:

¹⁷⁹ Education Legislation Amendment (Parental Rights) Bill 2020, p 3.

¹⁸⁰ Evidence, Ms Kirralie Smith, National Spokeswoman, Binary Australia, 21 April 2021, p 2. See also: Submission 41, Binary Australia, p 2.

¹⁸¹ Evidence, Ms Mary Hasson JD, Kate O'Beirne Fellow, Ethics and Public Policy Centre, 21 April 2021, p 2.

¹⁸² Evidence, Mr Patrick J Byrne, National President, National Civic Council, 20 April 2021, p 34.

¹⁸³ Submission 5, Professor Dianna Kenny, p 13.

¹⁸⁴ Submission 5, Professor Dianna Kenny, p 2.

¹⁸⁵ See for example: Submission 56, Ethics and Public Policy Centre, p 3; Submission 57, Professor John Haldane, p 3 and 4; Submission 60, National Civic Council and Australian Family Association, p 4; Submission 35, Human Rights Law Alliance, p 5.

In humans, genes on the X and Y chromosomes code for the production of sexual reproductive organs and the development of secondary sexual characteristics that define whether an individual is phenotypically male or female.¹⁸⁶

- 2.111** The inherent tension and contradiction in teaching the biological reality of sex *and* gender as a social construct in educational settings was highlighted by the National Civic Council and Australian Family Association when they asked, rhetorically:

How can NSW schools teach the scientific, biological reality of sex and at the same time teach that sex is a social construct, and that gender is also a social construct that replaces the biological reality of sex?¹⁸⁷

- 2.112** Adding his voice to this dialogue was Professor John Haldane who approached the issues from a slightly different perspective – that of a professional philosopher with expertise in ethics, education and public policy. Professor Haldane referred to an email notification service that keeps recipients up to date on the ever changing vocabulary/vernacular of 'LGBTQI+ language' to furnish the more serious observation that the inherently uncertain terms, concepts and ideas associated with gender identity have their genesis in a broad cultural and political movement rather than established scientific knowledge. Professor Haldane wrote:

...there is widespread uncertainty about the meanings and acceptability of such terms as gender, cis-gender, transgender, gender-queer, gender-fluid, non-binary, etc, and second, the fact that terms are being generated not in line with longstanding scientific, medical, philosophical or anthropological understandings but as part of a broad cultural and political movement involving advocacy of changing ideas and norms and criticism of existing ones.¹⁸⁸

- 2.113** From Professor Haldane's perspective, the difference between concepts of 'male and female' and the concept of 'gender' couldn't be more clear: 'male and female' are well defined and have objective criteria for their application; 'gender' does not have the same objective criteria but is considered as having 'something like cultural or social or intersubjective basis' instead.¹⁸⁹

- 2.114** Providing an alternative perspective, the Australian Research Alliance for Children and Youth suggested that the bill's use of gender fluidity is at odds with approaches taken in mainstream medicine and leading medical institutions. Referring to language and definitions used in the bill, the Alliance submitted:

It is inferred in these statements that the concept and acceptability of gender fluidity is ideological or related to core values. However, this is in contrast to the approach taken by leading health and medical institutions across Australia and internationally, which increasingly consider gender fluidity to be part of the normal spectrum of human diversity ... A publication by the Royal Children's Hospital in Melbourne explicitly states that 'Being trans or gender divers is now largely viewed as part of the natural spectrum of human diversity.'¹⁹⁰

¹⁸⁶ *Biology in Focus: Year 12* cited in: Mark Latham, Second reading speech: Education Legislation Amendment (Parental Rights) Bill 2020, 5 August 2020.

¹⁸⁷ Submission 60, National Civic Council and Australian Family Association, p 40.

¹⁸⁸ Submission 57, Professor John Haldane, p 2.

¹⁸⁹ Evidence, Professor John Haldane, private individual, 21 April 2021, p 5.

¹⁹⁰ Submission 28, Australian Research Alliance for Children and Youth, p 6.

- 2.115** When pressed further on the medical evidence for gender as something other than immutable biology, Dr Kristy Noble, the Alliance's Principal of Collaboration and Engagement, commented that 'it is fairly widely accepted that there is a distinction between gender and sex' and that in medical circles, it is less a 'social construct' and more precisely a 'manifestation of normal human diversity'.¹⁹¹ Following the hearings, Dr Noble commended to the committee the *Australian Standards of Care and Treatment Guidelines for Trans and Gender Diverse Children* as published by the Royal Childrens Hospital Melbourne to further illustrate the medical view of gender fluidity as a normal biopsychosocial variation rather than an ideology per se.¹⁹²
- 2.116** The Public Health Association of Australia took a similar stance. It submitted that, far from being a belief, gender fluidity and associated concepts in the bill have a solid basis in current scientific knowledge and evidence about human physicality, gender and sexuality from the biological, medical and social science perspectives.¹⁹³
- 2.117** Ms Jain Moralee, Co-Executive Director of the Twenty-Ten Association, did not accept the bill's definition of gender fluidity as a social construct. According to her evidence, gender is an experience and young peoples' experience of their gender can be different to the sex assigned to them at birth. Highlighting the importance of inclusive school environments, Ms Moralee told the committee:

Gender is an experience that a person has in their life. It is not a social construct ... It is an experience—we see, we know, that young people are having an experience of their gender. That can be different to what was assigned to them at birth, the sex assigned to them at birth. So what we do in our work and what we believe needs to happen in a school environment that is inclusive, is that all young people of all genders regardless of whether that is non-binary, gender diverse or they are having a trans experience—a gender experience that is different to the one that was assigned to them at birth—they have the right to receive a full, supportive education. I also believe that other young people who may be cisgendered and not having the same gender experience will benefit from understanding the different experiences that their peers are having.¹⁹⁴

- 2.118** A large number of the submissions against the bill contested the idea that provision of information about the existence of trans people is ideology:
- 'providing information around gender and sexual diversity is not a core value and it is not an ideology.'¹⁹⁵
 - 'trans kids are a natural and normal part of every community on earth. I did not know that before I had a trans child, nobody taught me that. The history of transgender people across the world—as Mr Cook said earlier, every indigenous culture across the world has got their own terminology for transgender people; this is not new, this is not a phenomenon. They are not the result of big pharma, they are not a contagion, they are

¹⁹¹ Evidence, Dr Noble, 20 April 2021, p 25.

¹⁹² Answers to questions on notice, Dr Kristy Noble, Principal of Collaboration and Engagement, Australian Research Alliance for Children and Youth, 20 May 2021, p 4; Submission 28, Australian Research Alliance for Children and Youth, p 4.

¹⁹³ Submission 58, Public Health Association of Australia, p 3. See also: Submission 24, Independent Education Union of Australia NSW/ACT Branch, p 2.

¹⁹⁴ Evidence, Ms Moralee, 20 April 2021, p 24.

¹⁹⁵ Evidence, Mr Ashley de Silva, Chief Executive Officer, ReachOut Australia, 20 April 2021, p 54.

not a narrative, they are not a belief, they are not an agenda, they are not a trend, they are not confused. Trans kids are not boys who play with dolls, or girls who play in the mud. Trans kids are not political footballs either. Trans kids are just like all other kids, except we got their gender wrong. Loving, supporting and affirming transgender kids is not an ideology. This is my son-he is a real person.¹⁹⁶

- 'the second reading speech seems to equate politics in our schools with basic factual information about our families. My existence, taking my children to school, ought not to be rendered politics in our schools.'¹⁹⁷
- 'parents resent the notion that a child talking about their family is ideological. The child's reality needs to be acknowledged and accepted, not stigmatised.'¹⁹⁸

2.119 The simple existence of transgender people is not an ideology, it is a biological, cultural and historical fact. For example: 'variations in gender identity and expression are part of the natural spectrum of human diversity that has existed across time and cultures' and 'Trans and gender diverse people have existed (though perhaps not by the name 'transgender') throughout history, across a range of cultures, including in First Nations clans across Australia.'¹⁹⁹

2.120 The imprecision of the use of the terms ideological and non-ideological in the bill and second reading speech is also contested by the Law Society of NSW interpreting the definition as one which could reasonably include:

... concepts familiar to Australians such as democracy, the rule of law, and freedom of expression arguably have a basis in ideology. Even secularism and secular instruction, specifically mandated by s 30 of the Education Act, has an ideological underpinning. The Bill's intention to preclude 'non-ideological' teaching may therefore have the consequence of prohibiting teaching on a vast range of topics; in our view, an unworkable and undesirable result.²⁰⁰

2.121 The labelling of transgender experience as ideology is argued to be based in a mistaken understanding 'about the relationship between biological sex and gender'²⁰¹ which fails to recognise transgender young people are not an idea or ideology, they exist and are going to schools in New South Wales right now.

2.122 As outlined above, the highly contested and unscientific nature of gender fluidity was identified in evidence as one reason why it should not be taught in the state's classrooms. The committee heard other cogent arguments for why such teaching should have no place in the classroom. These are explored in detail below.

¹⁹⁶ Evidence, Ms Lannen Stapleton, Executive Director, Parents for Transgender Youth Equity, 20 April 2021, p 61.

¹⁹⁷ Evidence, Ms Amy McGowan, Director of Advocacy for Rainbow Families, Rainbow Families, 20 April 2021, p 57.

¹⁹⁸ Submission 14, ACON, p 5.

¹⁹⁹ Submission 14, ACON, p 5

²⁰⁰ Submission 15, The Law Society of New South Wales, p 4.

²⁰¹ Submission 12, Rainbow Families NSW, p 3.

Stakeholder perspectives on gender fluidity in schools

- 2.123** A common thread in arguments for why gender fluidity should be banned from the classroom was the assertion that it is harmful and confusing to young people, resulting in serious psychological distress and contributing to a 'social contagion' effect. This perspective, as shared by many of the bill's proponents, suggested a correlation between the teaching of gender fluidity to young people and what was described in evidence as a sharp uptick in young people declaring themselves transgender and in some instances seeking medical intervention or transitions.
- 2.124** A prominent and expert voice in this debate was Professor Dianna Kenny. Proceeding from the premise that 'gender fluidity (and gender ideology in general) is leaking into school classrooms across the state from various sources',²⁰² Professor Kenny spoke of large increases in the number of children identifying as transgender or gender diverse, a phenomenon she attributed directly to the 'peddling' of gender fluidity within learning environments. She observed:
- ... children are being taught erroneous information and based on erroneous information these children are becoming extremely confused and as through a process of social contagion we are seeing very large increases in the number of children declaring themselves either non-binary, transgender, genderqueer, asexual, pansexual, omni-sexual, demi-boys and demi-girls.²⁰³
- 2.125** Social contagion refers to a process or pattern of influence whereby behaviors are copied among peer groups and networks. They reveal themselves in 'naturally forming clusters like schools or geographical clusters or other bases for people following each other in their behavior'. Other examples cited in evidence included suicide, marijuana use and anorexia nervosa.²⁰⁴ According to Professor Kenny, the social contagion effect is typically more pronounced among young adolescents than older adolescents, as young adolescents are more suggestible.²⁰⁵
- 2.126** In Professor Kenny's view, this phenomenon, along with other factors, has contributed to a '4,000 per cent increase in the number of young people identifying as trans.'²⁰⁶ As context to this trend, the number of people who identified as transgender according to the last Australian census was noted as representing only 0.005 per cent of the Australian population.²⁰⁷
- 2.127** As evidence of clustering in the state's schools, Professor Kenny referred the committee to a particular school in New South Wales that 'boasts of having 25 per cent gender-diverse students in their cohort', arguing that children who have never previously shown any inclination towards changing gender are now – through a process of contagion – declaring themselves transgender:
- ... children as young as 11 and 12 coming home to their parents saying that they are in fact now transgender. These children have never before in their entire development up to that point indicated any interest in being the opposite sex. So, yes, there is a very, very strong phenomenon of clustering, and we are seeing it across the education sector

²⁰² Submission 5, Professor Dianna Kenny, p 1.

²⁰³ Evidence, Professor Dianna Kenny, private citizen, 21 April 2021, p 25.

²⁰⁴ Evidence, Professor Kenny, 21 April 2021, pp 31 and 33.

²⁰⁵ Evidence, Professor Kenny, 21 April 2021, p 31.

²⁰⁶ Evidence, Professor Kenny, 21 April 2021, p 33; Professor Kenny identified the influence of the trans lobby and serious mental health issues as other relevant factors for this increase.

²⁰⁷ Evidence, Professor Kenny, 21 April 2021, p 33.

in both government and non-government schools. I have seen teachers in the inner west of Sydney tell me that they have got five students in one classroom who have now declared themselves cross gender. That is the biggest indicator that a massive social contagion effect is happening.²⁰⁸

2.128 Responding to criticism that the very idea of social contagion carries with it negative connotations, Professor Kenny commented that it is indeed negative 'if the behavior ... being copied is damaging to children.'²⁰⁹

2.129 Professor Kenny's evidence also raised concerns about schools misappropriating parental authority by keeping them in the dark about what is happening at school. This evidence referred to reports that a school had socially transitioned a child for six months without telling the child's parents. Unbeknownst to their parents, the child was given a skirt and was called by their selected name upon entry onto school grounds.²¹⁰

2.130 Several other inquiry participants also identified a correlation between gender fluidity teaching and clustering through social contagion.²¹¹ Mr Mark Sneddon, Executive Director of the Institute for Civil Society, explained that its support for the bill partly stems from concern about the role of social contagion in the recent proliferation of gender dysphoria and young people seeking medical transition:

[O]ne of the reasons we support this bill is ... to recognise that there is a social contagion aspect to the recent marked increase in a number of cases of prepubertal and peri-pubertal gender dysphoria and gender transition. That is caused by the teaching material in schools. It is obviously caused by social media and other things like that, which the education department cannot control, but it is caused in part by the proliferation of material through education and the discussion of these issues within the system. That leads to more people—more peri-pubertal and prepubertal young people—being told that they have gender dysphoria and being counselled through an affirmation process into transition.²¹²

2.131 Adding to this evidence, Ms Mary Hasson JD of the Ethics and Public Policy Centre noted 'statistics that show an unprecedented rise in the number of teens embracing a fluid gender or declaring a trans identity and this rise corresponds to the increasing exposure to gender fluidity concepts in schools and media'.²¹³

2.132 In a closely related thread of evidence, it was submitted that the teaching of gender fluidity in schools was a transgression of the rights of parents as the first educators and moral guardians of their children.²¹⁴

²⁰⁸ Evidence, Professor Kenny, 21 April 2021, p 31.

²⁰⁹ Evidence, Professor Kenny, 21 April 2021, p 33.

²¹⁰ Evidence, Professor Kenny, 21 April 2021, p 28.

²¹¹ Submission 46, Catholic Archdiocese of Sydney and the Maronite Eparchy of Australia, p 5; Answers to questions on notice, Council of Catholic School Parents NSW/ACT, 19 May 2021, p 2.

²¹² Evidence, Mr Mark Sneddon, Executive Director, Institute for Civil Society, 20 April 2021, p 42.

²¹³ Evidence, Ms Hasson, 21 April 2021, p 3.

²¹⁴ See for example: Submission 51, Council of Catholic School Parents NSW/ACT, p 5; Submission 16, Australian Christian Lobby, p 2.

2.133 For example, Professor Haldane viewed the teaching of gender fluidity as a clear abuse of a teacher's role and usurpation of parents' values:

... it is an abuse of the role of the teacher to usurp the values of the parents and particularly at an early age when parents and the home more generally have a formative role and is providing a context in which children are coming to understand themselves as human beings and what that means.²¹⁵

2.134 Similarly, Dr Kevin Donnelly AM, former teacher turned education researcher and author, argued that teaching Safe Schools and promoting transgenderism in the classroom is a denial of a teacher's duty of care and professional responsibility to teach in a balanced, impartial and objective manner.²¹⁶

2.135 Drawing a clear link with questions of parental primacy, Ms Mary Hasson JD submitted that the integration or promotion of gender fluidity in learning environments for Kindergarten to Year 12 is an affront to parental primacy and is incompatible with parental rights.²¹⁷ In her testimony to the committee, she explained that 'allowing schools to teach gender fluidity usurps parents' rights not only to form their children in values but also to protect them from actual harm.'²¹⁸ Additionally, Ms Hasson cited cases in the United States of serious harm caused by the teaching of gender fluidity where:

...children have been so confused that they are under emotional distress and their parents have had to seek psychological treatment for them, simply because they are being told something that is not true and that introduces doubt to them about their own circumstances.²¹⁹

2.136 The Australian Christian Lobby expressed its support for the proposed prohibition on gender fluidity teaching, suggesting to the committee it is a 'natural extension' on the existing restriction on sectarian teaching (s 30 of the *Education Act* as discussed above at paragraphs 2.52 to 2.55) and that gender fluidity ideology is 'inconsistent with the ethical and moral values of a majority of Australian parents who send their children to school to be taught about a full spectrum of ethical and moral values without being subjected to dogmatic teaching of only one set of beliefs'.²²⁰

2.137 In registering their support for the prohibition on gender fluidity teaching, several questionnaire participants expressed concern that teachers are not qualified counsellors or psychologists and thus do not have the medical or clinical expertise to support or guide students on gender issues. One respondent, in particular, offered the view that:

²¹⁵ Evidence, Professor Haldane, 21 April 2021, p 4.

²¹⁶ Submission 4, Dr Kevin Donnelly AM, p 1.

²¹⁷ Submission 56, Ethics and Public Policy Centre, p 10.

²¹⁸ Evidence, Ms Hasson, 21 April 2021, p 3.

²¹⁹ Evidence, Ms Hasson, 21 April 2021, p 4.

²²⁰ Submission 16, Australian Christian Lobby, p 4.

Gender theory or fluidity should not be taught by teachers in a school setting. They are not trained counsellors and do not have the capacity to support students who would be affected by this theory being taught.²²¹

2.138 Collectively, this evidence outlined the key reasons why gender fluidity teaching should be banned from the state's classrooms.

2.139 On the opposite side of the debate, there was strong objection to the proposed prohibition on gender fluidity from LGBTIQ lobby groups and peak bodies, health advocates, mental health service providers, parent groups, children and youth advocates, unions and legal experts. Issues raised by these groups included:

- the concern that the bill would prevent schools from providing support, counselling or referrals for transgender and gender diverse students, with special attention to the reach of the prohibition to non-teaching staff as established by proposed s 17C. This concern (or a variation on it) was outlined by Equality Australia, the Australian Association for Trans Health, the Australian Psychological Society, the New South Wales Council for Civil Liberties, ReachOut Australia, the NSW Teachers Federation, ACON, the Centre for Emotional Health at Macquarie University and others opposed to the bill.²²²
- concerns about the bill's impact on the mental health and wellbeing of transgender and gender diverse young people, including the concern that the bill would foster an unsafe learning environment for already vulnerable and at-risk groups. This evidence highlighted the importance of schools as safe and supportive environments for all students, including LGBTIQ students, framing this as a fundamental right of the child. Higher rates of mental illness, psychological distress and self-harm among transgender and gender diverse young people were also noted in this regard. One of several variations on this objection was raised in evidence from the Australian Research Alliance for Children and Youth, ACON, the Twenty-Ten Association, the NSW Teachers Federation, a coalition of community legal centres, ReachOut Australia, the NSW Gay and Lesbian Rights Lobby, the Australian Psychological Society, Australian Association for Trans Health and others opposed to the bill.²²³ This will be discussed in further detail in the next section.
- the concern that the bill would entrench, institutionalise or exacerbate discrimination against LGBTIQ students or would otherwise contradict existing laws preventing

²²¹ Portfolio Committee No. 3 – Education, NSW Legislative Council, *Report on the online questionnaire: Inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020*, p 9.

²²² Submission 47, Equality Australia, p 6; Submission 43, Australian Association for Trans Health, p 6; Submission 18, Australian Psychological Society, p 2; Submission 42, New South Wales Council for Civil Liberties, p 6; Submission 22, ReachOut Australia, p 9; Submission 30, NSW Teachers Federation, p 6; Submission 14, ACON, p 5; Submission 6, Centre for Emotional Health, Macquarie University, pp 6-7.

²²³ Submission 28, Australian Research Alliance for Children and Youth, pp 1 and 2; Submission 14, ACON, p 6; Submission 44, Twenty-Ten Association, p 3; Submission 30, NSW Teachers Federation, p 6; Submission 26, ICLC, HALC, Community Legal Centre NSW and Community Legal Centre Australia, p 3; Submission 22, ReachOut Australia, pp 6, 7 and 9; Submission 55, NSW Gay and Lesbian Rights Lobby, p 6; Submission 18, Australian Psychological Society, p 3; Submission 43, Australian Association for Trans Health, p 5.²²⁴ Submission 39, National Union of Students, p 2; Submission 33, Anti-Discrimination NSW, p 3; Submission 12, Rainbow Families, p 3; Submission 14, ACON, p 6; Submission 17, Office of the Advocate for Children and Young People and Office of the Children's Guardian, p 12; Submission 22, ReachOut Australia, p 2.

discrimination against students on the basis of their transgender status or gender identity. This concern was prominent in evidence from the National Union of Students, Anti-Discrimination NSW, Rainbow Families, ACON, the Office of the Advocate for Children and Young People and the Office of the Children's Guardian, ReachOut Australia and others strenuously opposed to the bill.²²⁴

- 2.140** Others equated the proposed prohibition on gender fluidity teaching with an erasure of transgender people – that is, a denial of their very existence. Perhaps the most compelling expression of this position was argued by Mr Teddy Cook – Vice President of the Australian Professional Association for Trans Health and the only transgender person to appear before the committee. Mr Cook remarked:

I guess what we are talking about is why are we educating children? Are we educating children so that they can go out and live in the world as it is? Trans people are not an ideology. We are here. We are real. We exist. We have always existed. We have always been in schools. We are not new. I would prefer an education system that builds the ability of our children to live in the world as it is. ... When we ban things that are real from being taught in our schools, we are saying that "You are not real. you are not valid." As a trans kid who is now an adult, hearing that, as I have heard other bits of evidence over the course of today, it is kind of a bit staggering, actually, to sit in that space—I think I am the only trans person here, actually—being told that who I am is a threat or a challenge or a radical theory or a problem.²²⁵

- 2.141** A/Prof Tania Ferfolja, Associate Professor, Primary Education, School of Education, Western Sydney University, gave evidence about current research being undertaken at Western Sydney University which shows that 'only 3.4 per cent of New South Wales parents would like to see the removal of relationships and sexual health education from the curriculum—and this is where most of the gender and sexuality diversity curriculum sits. Eighty-six per cent of New South Wales parents would like to see their children understand gender diversity across the primary and secondary schooling years.'²²⁶
- 2.142** Evidence from the young people consulted on the bill by the NSW Advocate for Children and Young People also overwhelmingly opposed the bill.²²⁷ The voices and views of young people must be included in any review of the education system.

Schools as safe and supportive environments

- 2.143** In voicing their objection to the bill, several opponents expressed concerns about its impact on the mental health and wellbeing of transgender and gender diverse young people, including the bill's potential to foster unsafe learning environments for already vulnerable and at-risk groups. This evidence highlighted the importance of schools as safe and supportive environments for all students, including LGBTIQ students, framing this as a fundamental right of the child.

²²⁴ Submission 39, National Union of Students, p 2; Submission 33, Anti-Discrimination NSW, p 3; Submission 12, Rainbow Families, p 3; Submission 14, ACON, p 6; Submission 17, Office of the Advocate for Children and Young People and Office of the Children's Guardian, p 12; Submission 22, ReachOut Australia, p 2.

²²⁵ Evidence, Mr Cook, 20 April 2021, p 54.

²²⁶ Evidence, A/Prof Tania Ferfolja, Associate Professor, Primary Education, School of Education, Western Sydney University, 21 April 2021, p 11.

²²⁷ Evidence, Ms Zoe Robinson, NSW Advocate for Children and Young People, 21 April 2021, p 68.

- 2.144** When asked about recent research on the relationship between teacher support and improved mental health and academic outcomes, Dr Kristy Noble of the Australian Research Alliance for Children and Youth, pointed to a 'fairly good' evidence base attesting to the 'extraordinarily poor' mental health outcomes among sexually and gender diverse young people – and linking affirming environments with improved outcomes. Dr Noble observed:

I think there is fairly good evidence to show that basically children and young people who are sexually and gender diverse—particularly gender diverse—have extraordinarily poor outcomes with regard to their mental health, and that supportive, affirming environments, particularly in relation to their teachers, improves both their mental wellbeing as well as their academic outcomes. Unsupportive environments are actually extraordinarily detrimental to these outcomes.²²⁸

- 2.145** This was reiterated by Mr Teddy Cook of the Australian Professional Association for Trans Health. To lend weight to this perspective, Mr Cook referred to *Writing Themselves in 4*, the largest ever survey of LGBTQA+ young people (aged 14-21) in Australia,²²⁹ which highlighted the importance of gender affirming environments for transgender students:

The research globally, here and internationally, continues to show up the same results, really, that trans kids do better and they have a better quality of life when they are affirmed as who they are at school. When they can safely attend the school that they want to go to as their affirmed gender, they do better. *Writing Themselves In 4*, which is a report that was published earlier this year, included data from 1,400 trans kids and it tells us that schools are currently some of the most unsafe places for them to be. But, once a school is affirming— i.e. got your name right, going to refer to you as the pronouns that you would like to use—they do better; they just do better. But we also see in the data that young kids are missing days off school—not going to school because they feel unsafe now. They are restricting their intake of food and drink so that they do not have to go to the bathroom. They are suffering from bladder and urinary tract infections because they refuse to go to the bathroom because they do not feel safe or comfortable. That is happening now.²³⁰

- 2.146** Offering insights from a transgender person's perspective, Mr Cook spoke of the harm caused to young transgender people when their authentic experience of who they are is denied as wrong, sinful or not based on biology:

The evidence is pretty clear and it is well established. This is the reality: When young people who are expressing a gender that is different than what was presumed for them at birth, if they are expressing who they are clearly—and I would say that a trans kid expressing their gender is work for us. It is not play. It is about being exactly who we are. So, when we are told that we are not allowed, that it is wrong, that it is sinful, that it is not based on biology, that we are a problem, that we are mentally ill, for starters, and that we do not have a place in society—and these are things that were told to me; these are just examples that I have been told—we see much poorer mental health outcomes. But that seems obvious, right? When you are exactly who you are and you

²²⁸ Evidence, Dr Noble, 20 April 2021, p 26.

²²⁹ Australian Research Centre in Sex, Health and Society, *Writing themselves in 4*, La Trobe University, <https://www.latrobe.edu.au/arcs/shs/publications/writing-themselves-in-publications/writing-themselves-in-4>; Australian Research Centre in Sex, Health and Society, *Writing themselves in 4: The health and wellbeing of LGBTQA+ young people in Australia*, La Trobe University, February 2021.

²³⁰ Evidence, Mr Cook, 20 April 2021, p 47.

are told that exactly who you are is not allowed, we see people who do not travel very well. We see, even in this State, some of the most staggering mental health outcomes compared to almost any other group.²³¹

- 2.147** The importance of schools as safe and supportive learning environments for LGBTIQ students was also highlighted in responses to the committee's online questionnaire. Some respondents volunteered their personal stories of coming to grips with their identities in unsupportive, unaccepting environments, such as the following:

As a transgender woman who went to school in the 1970/80s I would have loved for a teacher to explain that it is OK to be transgender or otherwise different. This would have made my life so much easier and way less harmful. It took me a further 40 years to discover that it was OK to be my authentic self and finally be happy. Please do not allow this bill to be passed, transgender and gender fluid children and young adults should not have to endure the shame, fear, hiding and self-loathing and harm I experienced, putting their lives and future at risk.²³²

- 2.148** Stakeholders also focused on the positive effects of giving young people an inclusive environment in schools and the impact this had on student safety. Student safety was highlighted by the Independent Education Union of Australia (NSW/ACT Branch) as a key parent focus. Mr Mark Northam, the Union's Secretary, expressed support for the argument that feeling safe and connected in schools is fundamental to student development and academic achievement:

[F]rom my perspective on working in large Catholic high schools, it is absolutely that. When we were talking to parents, bringing parents into the school communities that I work in, that was the number one parent question—was around safety. Now they meant that in a broad sense, but it was very real and I think it has showed up in that Association of Independent Schools research this morning. ... It is a key parental concern.²³³

- 2.149** Evidence from organisations such as the Australian Professional Association for Trans Health stressed the importance of young transgender people being affirmed in who they are within their social and familial worlds, including their school communities. Noting this evidence, some members of the committee sought to explore any potential consequences the affirmation model may have in influencing decisions to start transitioning medically through irreversible interventions, especially for young people who are still working out who they are. In response to this line of questioning, Mr Cook noted that access to medical interventions in New South Wales is actually 'extremely difficult' and the clinical process is not about a transgender person proving to clinicians that they are in fact transgender. Instead, it is the clinician's role to assess and determine an individual's capacity for consent:

It is not a clinician's job to agree or not agree that we are who we say we are. It is the clinician's role to assess whether we can consent, whether we understand what is happening and whether we can move forward with a full and informed decision being made—something that does not happen with any other kind of medical procedure that people go through. In fact, regret rates are substantially higher for people who have had lap band surgery than any other kind of gender-related surgery. But there is this real focus on what happens if you make a decision that you then regret later. I would prefer

²³¹ Evidence, Mr Cook, 20 April 2021, p 50.

²³² Portfolio Committee No. 3 – Education, NSW Legislative Council, *Report on the online questionnaire: Inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020*, p 16.

²³³ Evidence, Mr Northam, 21 April 2021, p 52.

the question to be: How can we support you to be who you are, whatever that looks like?²³⁴

Banning gender fluidity teaching: Impacts on teachers and legal concerns

2.150 Several inquiry participants submitted that the bill would compromise the role of teachers and jeopardise their ability to do their job properly in supporting children who are exploring their identities.

2.151 The Australian Psychological Society argued that this could also be true of school psychologists and other support staff – with detrimental consequences for the mental health of LGBTIQ young people. The Society explained:

It is likely that this bill will impact on the ability of school psychologists, as well as teachers and other school staff, to provide support to children who are exploring their identities and/or identify as Lesbian, Gay, Bisexual, Transgender, Queer, Intersex or any other term people use to describe experiences of their gender, sexuality, and physiological sex characteristics (LGBTQI+). ... If a young person perceives that they cannot speak about personal issues of concern (including gender / LGBTQI+ issues and climate change), without fear of judgement/stigma or discrimination, then they may be at significantly higher risk of mental health issues and dying by suicide than the general community.²³⁵

2.152 According to Ms Amber Flohm of the NSW Teachers Federation, the bill undermines the role teachers have in promoting discussion of complex matters in the classroom and is an affront to teachers' duty to call out and address *all* instances of discrimination against students, including discrimination on the basis of one's sexual identity:

As teachers we have a role as educators. That is our role and our role is not to lead a student in a particular path. Our role is to facilitate discussions around complex matters as they arise in the classroom. This bill will not allow teachers to do that. The consequence of that is very, very significant to students' safety and their overwhelming wellbeing. The situation that this bill proposes for teachers will mean—and if I take a broader context, for example, of matters of racism that also arise from time to time, in our complex and diverse classrooms, are raised by students. It is the responsibility of teachers to address those matters where children are exploring the world and community around them, as we would expect them to. I know that the parents and community in general would not want teachers to ignore matters of discrimination based on race, or faith, or sexual identity because we do have a duty of care to those young people, and teachers take that very, very seriously.²³⁶

2.153 Mr Ghassan Kassisieh, Legal Director of Equality Australia, viewed the bill as 'problematic' and 'highly unworkable', stating that:

[T]his bill is attempting to solve a problem that does not exist through problematic and highly unworkable proposals that will prevent teachers from doing their jobs and

²³⁴ Evidence, Mr Cook, 20 April 2021, p 51.

²³⁵ Submission 18, Australian Psychological Society, p 2.

²³⁶ Evidence, Ms Flohm, 21 April 2021, p 50.

threaten the health and wellbeing of vulnerable young trans and gender diverse people.²³⁷

- 2.154** This accords with the submissions from the Federation of Parents and Citizens Associations of NSW and the NSW Parents Council which both oppose the bill. The Federation of Parents and Citizens Association raised concerns that the 'uncertainty this would create within education could potentially be catastrophic to the delivery of a uniform curriculum, and place schools and teachers in untenable positions.'²³⁸ Likewise, the NSW Parents Council argued that the bill does not reflect the ideals of current society.²³⁹
- 2.155** Other opponents of the bill maintained it would create an impossible situation where 'teachers and other staff will be faced with choosing between knowingly inflicting harm on vulnerable young people in their care or losing their livelihoods. No teacher should be forced to make such a decision.'²⁴⁰
- 2.156** The bill was also found to be in direct contradiction with the obligations teachers have as mandatory reporters under the *Children and Young Persons (Care and Protection) Act 1998* which specifically includes a duty to report risks including psychological harm.²⁴¹ More fundamentally the prohibition on recognising the existence of trans and gender diverse people will 'prevent schools from enacting their duty of care to the welfare of their students.'²⁴²
- 2.157** The bill was considered to fundamentally contradict the NSW Education Act – specifically because the object of that act includes: encouraging diversity within schools and mitigating educational disadvantage arising from a child's gender.²⁴³ Furthermore, the Law Society of NSW found the new proposed schedule 1 clause 4 'relating to provision of an education 'consistent with the moral and ethical standards and the political and social values of parents of students'(sch 1, cl 4) may conflict with the Education Act's existing objective of promoting family and community values.'²⁴⁴
- 2.158** There were also concerns that the proposed 'amendments to the *Teacher Accreditation Act 2004* (NSW) represent the sanctioning of unlawful and discriminatory practices.'²⁴⁵

Critical perspectives on Bulletin 55

- 2.159** As outlined in the previous chapter, *Legal Issues Bulletin 55: Transgender students in schools* (hereafter, Bulletin 55) is the NSW Department of Education's formal legal advice and policy framework

²³⁷ Evidence, Mr Kassisieh, 20 April 2021, p 58.

²³⁸ Submission 38, Federation of Parents and Citizens Associations of NSW, p 2.

²³⁹ Submission 68, NSW Parents Council, p 2.

²⁴⁰ Submission 26, ICLC, HALC, Community Legal Centre NSW and Community Legal Centre Australia, p 6.

²⁴¹ Submission 24, Independent Education Union of Australia NSW/ACT Branch, p 4.

²⁴² Submission 18, Australian Psychological Society, p 5.

²⁴³ Evidence, Mr Jared Wilk, Co-Convenor of the NSWCCCL Human Rights and Civil Liberties Action Group, NSW Council for Civil Liberties, 21 April 2021, p 65.

²⁴⁴ Submission 15, The Law Society of New South Wales, p 4.

²⁴⁵ Submission 14, ACON, p 4.

for transgender students in schools. It sets out the rights of transgender students in government schools and associated obligations for schools in supporting students who identify as transgender.²⁴⁶

2.160 Questions about Bulletin 55 and its impacts on other rights-holders within the school community formed a significant line of inquiry throughout the committee process.

2.161 In their joint submission, the National Civic Council and Australian Family Association levelled a number of criticisms at what they labelled 'gender fluid school policies' (including Bulletin 55) designed to embed in departmental policy anti-discrimination protections for transgender students established in Commonwealth law.²⁴⁷

2.162 According to their submission, inherent in policies such as Bulletin 55 is an implied affirmation that 'gender identity' is real and that certain rights flow from that recognition:

The NSW Bulletin No 55 policies flow from the claim that gender identity – a highly contested, ambiguous, conflicted and contradictory concept of identity, completely dependent on the reality of biological sex – is real and that gender identity rights take priority over sex-based rights.²⁴⁸

2.163 For the National Civic Council and Australian Family Association, Bulletin 55 gives rise to 'irresolvable conflicts' and operates to expressly privilege transgender rights at the expense of the rights of other school groups, most importantly 'natal' girls:

All students are to be taught that gender identity is a reality, coexisting with, or in place of, biological sex; every student is taught they can choose their own gender identity; and biological girls are required to accept transgenders in their safe space and sports.²⁴⁹

2.164 From this perspective, requiring natal girls to accept transgender students into their sports and safe spaces is itself considered a form of sex-based discrimination as it sets up a policy framework which treats biological girls 'less favourably' than other students.²⁵⁰ This was underlined in the Australian Family Association's commentary on impacts to privacy rights where it was observed that '[f]ar from biological girls having the right to privacy and to enjoy facilities without fear of intimidation, under gender identity laws and education department policies, girls now have a duty to share such facilities with boys who identify as girls.'²⁵¹

2.165 In evidence to the committee, Mrs Terri Kelleher, National Vice President of the Australian Family Association, explored the inherent tensions that arise from the creation of rights for transgender students in schools, for example regarding the use of toilets, change rooms and overnight school camp accommodation:

²⁴⁶ NSW Department of Education, *Legal Issues Bulletin 55: Transgender students in schools*, last reviewed December 2014, https://education.nsw.gov.au/about-us/rights-and-accountability/legal-issues-bulletins/transgender-students-in-schools#Sample_24.

²⁴⁷ Submission 60, National Civic Council and Australian Family Association, p 32.

²⁴⁸ Submission 60, National Civic Council and Australian Family Association, p 34.

²⁴⁹ Submission 60, National Civic Council and Australian Family Association, p 35.

²⁵⁰ Submission 60, National Civic Council and Australian Family Association, p 35.

²⁵¹ Submission 60, National Civic Council and Australian Family Association, p 34.

All of those bits of school life are affected then by the creation, in effect, of the rights of transgender students. There needs to be a really thoughtful exploration of that, of what it means. But this is what the bulletin requires. That carries, first of all, a question as to the rights of girls in schools—their right to freedom from discrimination. Is it not discrimination against natal girls if natal male students who identify as female are allowed to use their toilets, change rooms and showers and share overnight school camp accommodation? What about their right to feel safe and to their privacy in spaces where they may be in a state of undress or asleep? What right do they have to fair sporting competitions?²⁵²

- 2.166** Under Bulletin 55, schools are encouraged to identify, assess and manage any risks arising from school support arrangements for transgender students, such as the use of toilets and change rooms, excursions and school sport. According to the National Civic Council and Australian Family Association, the bulletin only assesses risks to transgender students, not risks to other students, particularly girls.²⁵³ Critically, these include child safety concerns, with Mrs Kelleher suggesting that allowing transgender students to use toilets of their identified gender, sets up scenarios that could potentially be 'high risk':

Then there are risks to students of adopting gender fluid policy such as bulletin 55, the issue of child safety. In 2014 there was a report on child-on-child sexual abuse in schools. That was quite horrific. If I can find the report—it was in 2014 and it is referred to in our submission. There were about a thousand cases across Australia in 2013 of sexual assaults, student on student, in schools. About 700-odd of those, or over 700, were in Victoria and about 145 in New South Wales. The rest were in the other States. This is quite disturbing. Why would you want to set up—because part of the instructions or guidelines for schools as a result or a flow-on from teaching gender fluidity, you know, that people are the gender that they feel and it may not be their natal sex, is to allow natal males into girls' toilets. Now, that is not saying that all males or all boys who identify as girls are going to be a threat, but it sets up a situation where that can occur. That is very serious in the light of the child-on-child sexual abuse in schools.²⁵⁴

- 2.167** The practical implications of such arrangements for teachers was also highlighted in evidence to the committee. Referring to the requirement for staff to monitor students' use of change rooms, Mrs Kelleher considered this requirement to be 'onerous' on teachers, placing them in difficult situations.²⁵⁵ But more than that, it has the potential to expose the NSW Department of Education to a perceived dereliction of its duty of care:

...why would the NSW education department want to risk prosecution for failing to protect a female student from rape or sexual assault in a school toilet, shower or change room that she had to share with a natal male student who identifies as female?²⁵⁶

- 2.168** The safety and fairness of girls in sports was identified as another consideration that ought to be balanced and reconciled with the rights of transgender students in schools. This was the

²⁵² Evidence, Mrs Terri Kelleher, National Vice President, Australian Family Association, 20 April 2021, p 40.

²⁵³ Submission 60, National Civic Council and Australian Family Association, p 35.

²⁵⁴ Evidence, Mrs Kelleher, 20 April 2021, pp 40-41.

²⁵⁵ Evidence, Mrs Kelleher, 20 April 2021, p 41.

²⁵⁶ Evidence, Mrs Kelleher, 20 April 2021, p 41.

focus of evidence from Save Women's Sport Australasia, a non-partisan, non-religious organisation that is part of a global movement to safeguard the rights of girls in sports by asserting that biological males should not compete in the female category.²⁵⁷

- 2.169** Echoing the views of the Australian Family Association, Save Women's Sport Australasia took exception to Bulletin 55 as a document containing a number of discriminatory and alarming policies, one of which is its disregard for 'the rights of teenage girls to compete in sports on a level playing field as per the *Sex Discrimination Act 1984* (Cth) s 42, the *Anti-Discrimination Act 1977* NSW s38 and [the Convention on the Elimination of All Forms of Discrimination against Women], Art. 10(g)'.²⁵⁸
- 2.170** The committee heard compelling evidence from Ms Katherine Deves, the organisation's Co-founder and Spokeswoman, who outlined the material implications of embedding the concept of gender identity into departmental policy within education, including its impact on the hard-fought sex-based rights of females:

Bulletin 55 expressly privileges the interests and wellbeing of [transgender] students. This has profound material implications for girls, who will be forced to accommodate males in their facilities and in their sports. From a young age, males enjoy significant biological advantages that dramatically increase during puberty to result in a vastly superior athletic performance. These advantages are only fractionally mitigated by the artificial reduction of testosterone and create an alarming increased risk of injury to female competitors... Entrenching the concept of gender identity into education curriculums and policy places an intolerable burden on girls. It requires them to sacrifice their privacy, dignity and safety in spaces where they are vulnerable. It requires them to ignore the reality of existing in a female-sex body in favour of a male's subjective belief about himself. It requires them to forgo their right to compete on a level playing field in sport because fair competition is destroyed, athletic opportunities are lost and players' safety is completely disregarded.²⁵⁹

- 2.171** Bolstering arguments about fairness and safety, Ms Deves observed that males have a distinct biological advantage measurable on metrics like strength, speed and stamina, making it unsafe and unfair to allow them to compete in the female category.²⁶⁰ She commented:

The World Rugby organisation did a review into all the existing evidence of the differences between male and female athletes and they decided that males with trans identity could not compete in the female category for that reason. It is far too dangerous. The risk of injury is 20 to 30 per cent, conservatively estimated. Girls are far more likely to suffer a more severe concussion at lower impacts. All of that is being ignored. Then when we look at bulletin 55, where they are saying that a child with a trans identity can just play in whatever category they want, they are completely disregarding the risks here and issues around liability. It is completely unfair and unsafe for women and girls to have to put up with this.²⁶¹

²⁵⁷ Evidence, Ms Katherine Deves, Co-founder and Spokeswoman, Save Women's Sport Australasia, 21 April 2021, p 24.

²⁵⁸ Submission 75, Save Women's Sport Australasia, p 2.

²⁵⁹ Evidence, Ms Deves, 21 April 2021, p 24.

²⁶⁰ Evidence, Ms Deves, 21 April 2021, p 28.

²⁶¹ Evidence, Ms Deves, 21 April 2021, p 28.

2.172 In response to questioning about Bulletin 55, Mr Greg Bondar, former educator and State Director for of FamilyVoice Australia, told the committee that there was no consultation process with parents and teachers when this bulletin was made and that, to the best of his knowledge, there has been no significant update to it since it was made in 2014. He remarked:

Parents had not been advised—had not been consulted when this bulletin 55 was made. Never were they; I know I wasn't. So when we see this sort of rhetoric coming out from a government department encouraging this sort of education, we need to make sure that parents are involved, they are consulted, they have an input, and we need to make sure that we engage with them because this is just coming out of an educational institution that I think has failed in its duty to speak with parents on issues of concern to their children.²⁶²

2.173 In response to questions on notice and supplementary questions, a number of inquiry participants made recommendations as to how Bulletin 55 could be revised and updated to better reconcile and balance the rights of transgender students in schools with the rights of parents and other students. For example:

- The Australian Christian Lobby argued that Bulletin 55 should recognise the fundamental rights of parents and the international law that protects their primacy in relation to their child's upbringing, education and development. The Lobby advocated for a more balanced reconciliation of the rights of transgender students and the rights of parents and other students.²⁶³
- FamilyVoice Australia recommended that emotive language be removed from the bulletin and urged the NSW Department of Education to consult with parents when developing or re-drafting any future bulletins that touch on issues requiring parental consent. FamilyVoice Australia also made specific recommendations about the way students' names are used and recorded by schools, choice of uniforms, the use of toilets and change rooms, school excursions and school sport among other matters.²⁶⁴

Research supporting gender fluidity teaching

2.174 During the inquiry, the committee was referred to a number of social research initiatives which sought to gauge public opinion on the bill and the teaching of gender issues in schools.

2.175 One of these was a student consultation process undertaken by the Advocate for Children and Young People. The Office conducted four focus groups – two held in regional government schools and two held in metropolitan schools – canvassing the views of 35 students in total. Nine members of the government-appointed Youth Advisory Councils also submitted a response. The Advocate argued that 'the sample size and composition is in line with research industry standards to understand how young people feel about this bill.'²⁶⁵

²⁶² Evidence, Mr Greg Bondar, NSW/ACT Director, FamilyVoice Australia, 20 April 2021, p 12.

²⁶³ Answers to supplementary questions, Australian Christian Lobby, 20 May 2021, p 3.

²⁶⁴ Answers to supplementary questions, FamilyVoice Australia, 18 May 2021, pp 1-3.

²⁶⁵ Submission 17, Advocate for Children and Young People and Children's Guardian, p 5.

2.176 On the basis of these consultations, the Advocate concluded that young people do not support the passage of the bill and that every student who participated in the consultations agreed that teachers and counsellors should be able to speak with students about gender fluidity.²⁶⁶

2.177 Guided by their student consultations, the Advocate recommended that:

... amendments regarding prevention of instruction about gender fluidity are not adopted and that students are taught about different worldviews, social constructs, health and wellbeing in accordance with their age and developing maturity. This recommendation is based on both consultation with students in NSW and the United Nations Convention on the Rights of the Child.²⁶⁷

2.178 Ms Zoe Robinson, the Advocate for Children and Young People, provided further details about their consultation methodology. In particular:

- the Office ran the consultations rather than using an independent external facilitator
- participants were self-selected/asked to volunteer rather than being randomly selected.²⁶⁸

Student consultations on gender fluidity: Office of the Advocate for Children and Young People

Throughout the inquiry, there were questions about the validity and credibility of public opinion research seeking to gauge community attitudes on the teaching of gender fluidity. Community consultations conducted by the Office of the Advocate for Children and Young People was one such example.

As outlined above, the Advocate's submission recommended that 'Amendments regarding prevention of instruction about gender fluidity not [be] adopted and that students are taught about different worldview, social constructs, health and wellbeing in accordance with their age and developing maturity. This recommendation is based on consultation with students in NSW.'

Schorer PSM and Robinson also recommended against a legal right for parents to withdraw their children from certain classes and also against the proposal for parents to be consulted at the beginning of every school year on content in the classroom and curriculum. That is, they opposed the rights of the parents of children to be effective guardians of those children.

When asked about the meaning and purpose of 'social constructs' in the classroom, Schorer PSM and Robinson refused to say. Indeed, Robinson adopted the bizarre position of refusing to advocate for any position unless she first consulted a group of unnamed school students. Under questioning at the committee hearing, she was an advocate without advocacy.

What did her consultative program with young people involve? Robinson presented student views overwhelmingly in favour of the teaching of gender fluidity in New South Wales

²⁶⁶ Submission 17, Advocate for Children and Young People and Children's Guardian, p 13.

²⁶⁷ Submission 17, Advocate for Children and Young People and Children's Guardian, p 2.

²⁶⁸ Evidence, Ms Robinson, 21 April 2021, p 78.

classrooms. She wrote to the committee on 23 April 2021, opining that '[w]e are confident that our submission reflected the views of children and young people in NSW.'²⁶⁹

Her submission to the committee purported to speak for the views of children in New South Wales based on a 'sample size and composition in line with research industry standards (on how) to understand how young people feel about this bill.' In fact, the consultations were based on:

- focus groups of 35 school students, out of 2.7 million young people in New South Wales, that is, 0.001 per cent of the cohort, plus viewpoints from nine members of the Youth Advisory Council (including people up to the age of 24 years - that is, a number of adults);
- the focus groups were not run by a professional, independent moderator but by Children's Advocate and Guardian staff;
- one-half of the focus group numbers were from a high school near Strawberry Hills, where the inner-city Office of the Children's Guardian premises are located, and the other half from an unspecified regional high school. In response to supplementary questions from the committee, Robinson refused to name the high schools involved - a clear lack of accountability in assessing her evidence;
- one-half of the focus group participants in the regional area were drawn from 'young people who attend a support group for LGBTQIA+ students' – an obvious bias of opinion; and
- focus group participants actually volunteered for the interviews, that is, they were self-selected, not only by themselves but through permission granted by their parents; meaning there was no random, representative sample used by the Children's Guardian and Advocate.

2.179 Other research findings fundamentally at odds with the bill's intent were those presented to the committee by Associate Professors Tania Ferfolja and Jacqui Ullman, social and cultural diversity researchers and academics at Western Sydney University. This research was funded by an Australian Research Council Grant and examined parents' perspectives on whether gender and sexual diversity should be included in the school curriculum.²⁷⁰

2.180 According to A/Prof Ferfolja and A/Prof Ullman, their research findings contradict the central assumptions of the bill which, in their view, is that parents do not want their children to be taught about gender and sexuality diverse-inclusive matters:

This bill hinges on the central assumption that parents do not want gender and sexuality diverse [GSD]-inclusive education. Our nationally-representative sample of Australian parents shows otherwise. 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%

²⁶⁹ Correspondence from Ms Zoe Robinson, NSW Advocate for Children and Young People, to the committee, 23 April 2021.

²⁷⁰ Submission 74, Associate Professor Tania Ferfolja and Associate Professor Jacqueline Ullman, School of Education, Western Sydney University, p 1.

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.²⁷¹

- 2.181** The research methodology for the quantitative component of their work consisted of a 'detailed survey' completed by '[t]wo thousand, ninety-three (N = 2093) parents of school-aged children...of whom 616 were from the state of New South Wales.'²⁷² The research used Facebook and Instagram for survey recruitment via paid advertisements and utilised a non-probability sample and opt-in methods.²⁷³

Committee comment

- 2.182** Much of the public comment about the Bill has centred on the question of gender fluidity. Indeed, this issue dominated most of the submissions to the inquiry and much of the discussion at the two days of committee hearings. Unfortunately, in this intensely political debate, the important provisions about parental rights have been treated as a second order issue. The committee believes this is the wrong priority.
- 2.183** We support legislating for parental rights but do not believe, currently, this approach is appropriate for gender fluidity. The bill raised legitimate concerns about the way in which schools are dealing with the Safe Schools ban and also the growing number of gender transitions (permanent and temporary) in the NSW schools system. But this is a difficult area in which to legislate and in any case, legislation might not be the best initial response.

Recommendation 7

That the Legislative Council amend the Education Legislation Amendment (Parental Rights) Bill 2020 to remove the proposed legislative provisions concerning gender fluidity.

- 2.184** As part of its inquiry, the committee examined significant information and shortcomings in the Department of Education's *Bulletin 55: Transgender students in schools*. This bulletin was first issued in December 2014 and clearly has become out-of-date. The committee believes the NSW Government needs to update and extend the bulletin in response to questions of gender fluidity teaching and student gender transition in schools.
- 2.185** While the issue is controversial and highly contested, even in expert opinion, the committee hearings were very useful in raising critical information about transgenderism. Often in the

²⁷¹ Submission 74, Associate Professor Tania Ferfolja and Associate Professor Jacqueline Ullman, School of Education, Western Sydney University, p 2.

²⁷² Submission 74, Associate Professor Tania Ferfolja and Associate Professor Jacqueline Ullman, School of Education, Western Sydney University, p 1.

²⁷³ Evidence, A/Prof Jacqueline Ullman, Associate Professor, Adolescent Behaviour, Wellbeing and Pedagogical Studies, Western Sydney University, 21 April 2021, p 13; See also: Answers to questions on notice, A/Prof Jacqueline Ullman and A/Prof Tania Ferfolja, Western Sydney University, 18 May 2021, pp 1-2.

political debate, especially in the NSW Parliament, the voices most commonly heard are advocates for the LGBTIQ+ community.

- 2.186** It was refreshing during this inquiry to hear the other side of the story. LGBTIQ+ advocates start from a position of regarding every claim to gender transition among school students to be genuine and lifelong. Sceptics on the other side of the debate have identified young pranksters and attention seekers as adding to the 'fad' nature of transgenderism in schools. They also point to a number of young people who re-transition back to their original gender identification later in life.
- 2.187** This conflicting evidence informed the committee of a crucial point: If the experts cannot agree on a settled evidence base in this field, what hope is there for school teachers trying to manage student gender transitions (real and temporary) day-to-day?
- 2.188** Are teachers equipped and capable of making these judgements? The evidence suggests many teachers are uncomfortable with intervening on questions of student gender. They can have difficulty in telling the difference between student pranksters, attention-seekers and genuine transgender. They have been trained as educators, not medical experts. The qualifications and expertise of school counselors in this field also vary. Some are social workers without training in the highly specialised field of transgender medicine and psychology.
- 2.189** Even in medical science, gender fluidity is a contested field. It appears to be the only condition for which some doctors allow patients to self-diagnose, whereby feelings of a certain gender qualify as gender identification. If medical science is struggling with this issue, why would anyone think schools are capable of handling it?
- 2.190** In all aspects of the curriculum, schools should only teach certain content a certain way if they can establish a firm evidence base for doing so. In academic and vocational subjects, such an evidence base exists, over centuries of teaching experience and evaluation studies. We know what works in the classroom and what doesn't. The challenge for policy makers is to put rules, incentives and boundaries around the system so that the evidence base is followed.
- 2.191** Student gender fluidity is totally different. It's a relatively new issue for which schools have little experience or expertise. If mishandled by teachers, it can have horrific consequences for students and families. Following ideological beliefs or 'feel good' intentions is no substitute for a settled evidence base.
- 2.192** For this reason, the committee believes schools should not play a frontline role in the management of gender fluidity issues and student gender transition. They should see themselves as offering support and pastoral care to students, based on the advice of medical experts and parents/guardians. The committee strongly recommends this approach.
- 2.193** As a vital first step, we recommend that the relevant Department of Education Legal Issues Bulletins be updated. Transgenderism is a growing trend in schools, requiring a nuanced and contemporary approach. The main Bulletin to be updated is *Bulletin 55: Transgender Students in Schools*; but Bulletin 20 concerning student name changes (first issued in December 2014) is also relevant.
- 2.194** Finally, the committee recommends that the NSW Government review the updated Bulletin 55 two years after its introduction, assessing its effectiveness and compliance by schools.

Recommendation 8

That the NSW Government update *Bulletin 55: Transgender Students in Schools* based on the following principles:

1. The Safe Schools program and *Gayby Baby* movie are prohibited in NSW Government schools. Gender fluidity is not part of the NSW school curriculum and therefore, should not be taught or promoted, either in classrooms, teacher professional development, by external consultants, special school activities or through the distribution of material to teachers or students. This prohibition also applies to the teaching of gender as a 'social construct'.
2. As with all school students, transgender students must be treated with care, compassion, dignity and inclusion, free from discrimination, harassment, vilification and violence. They must be able to access all school classes, services and activities.
3. Schools cannot regard a student as transgender without regard to advice from medical experts and/or parents/guardians. Schools must always inform parents/guardians of relevant information and involve them at every stage of the decision making process.
4. No school or school staff can withhold information from parents about the gender or gender transition of a student at the school, other than by a court order or acting with the advice of a government child protection agency.
5. No student has the right or capacity to stop the school telling their parents information about their gender, where the school is obliged to do so.
6. No student under the age of 18 can change their name at school (away from the name on their birth certificate) without the consent of both parents/guardians with whom they live. In the case of shared custody, the consent of both parents is required.
7. Transgender students should be allowed to wear the school uniform of their choice and preference.
8. In school sport, once students reach high school (Year 7) they should not compete outside of their biological gender. This policy recognises the strength advantages teenage boys develop over girls.
9. Other than in circumstances of a full medical gender transition, students born biologically male shall not be allowed in female toilets, change rooms, dormitories and excursion accommodation; and vice versa for students born biologically female. Third options shall be made available for these students, such as administrative block toilets and change rooms.
10. If schools establish, either on the initiative of teachers or students, groups involved with support and discussion of matters concerning gender and sexuality (such as LGBTIQIAP support groups), students under the age of 18 shall only participate following the granting of parental consent.
11. For students aged under 18 years, school counsellors should not involve themselves in questions of gender fluidity and transition without prior reference to parents and any medical professionals advising the student and parents on this matter. Parents have the right to know if gender fluidity and transition are being discussed at school. School counsellors must liaise with parents and relevant medical professionals as much as possible.
12. If a student has changed their gender, their parents shall be consulted about the best way of communicating this to the school community. Parents of other children in the same year group should be notified of the change, allowing them to talk to their children in advance.

Recommendation 9

That the NSW Government review the updated *Bulletin 55: Transgender Students in Schools* two years after its introduction, assessing its effectiveness and compliance by schools.

- 2.195** From the evidence presented to the committee, an issue arose concerning the validity of public opinion research in relation to gender fluidity and transgenderism. This is an important matter as, in a field as contentious and heavily contested as gender fluidity, reliable research is essential in gauging community attitudes.
- 2.196** The committee notes with concern the research presented to the inquiry by the Office of the Advocate for Children and Young People and its serious methodological deficiencies. In the committee's view, its findings hold very limited weight and utility as a representation of the views of young people in New South Wales on the teaching of gender fluidity. No one in the opinion polling industry would regard this process as credible. It breached every conceivable industry standard, in guaranteeing a heavily biased sample group and unreliable findings. Schorer PSM and Robinson presented as political activists advancing their own views, rather than the representative opinion of young people in NSW.
- 2.197** Casting further doubts on the validity of this research, it was revealed after the committee's hearings that the Advocate wrote to the Hon Greg Donnelly MLC on 11 September 2020 advising him that young people had not raised gender dysphoria as an issue in their consultations up to that date.²⁷⁴ In light of this concession, the committee can surmise that it was only in response to the bill that the Advocate manufactured this research making it an issue. By her own concession, before that point in time, no young people in New South Wales had raised gender dysphoria and gender fluidity as an issue. This raises the very valid question of whether the Advocate's consultations are about letting young people tell them the issues they feel strongly about, or whether the Advocate in fact sets and drives the agenda in accordance with her political biases and interests.
- 2.198** Likewise, the committee was skeptical of the publicly funded research findings submitted in evidence by the Western Sydney University advocates, A/Prof Tania Ferfolja and A/Prof Jacqueline Ullman. These researchers used Facebook and Instagram to target specific demographics in recruiting survey participants. This recruitment methodology raises serious questions about the accuracy, reliability and credibility of their research data. Was this statistically valid social research or an attempt to stack the participant pool to arrive at a predetermined outcome? From the committee's perspective, this was a clear case of political and ideological advocacy for a particular worldview masquerading as disinterested academic inquiry – one funded by public money no less. Even more perversely, the Ferfolja/Ullman research project has the specific goal of overturning the New South Wales ban on Safe Schools.
- 2.199** The committee notes that on 23 June 2021, Minister Mitchell answered a question on notice revealing that the NSW Department of Education has rejected the application of Ferfolja and Ullman to conduct their pro-Safe Schools research in New South Wales schools. This vital

²⁷⁴ Evidence, Ms Zoe Robinson, NSW Advocate for Children and Young People, 7 May 2021, p 4. [2021 Review of the Annual Reports of the Office of the Advocate for Children and Young People, Joint Committee]

information puts their work and submissions in perspective. The committee thanks the Minister for this decision.

- 2.200** In the committee's view, the NSW Government should be alert to flawed and methodologically questionable research purporting to gauge public opinion on contentious issues such as the teaching of gender fluidity. Reliable, representative opinion polling techniques are available to government agencies, if they look for them. We know this from our own involvement in electoral polling. It is hard enough to deal rationally with the issue of transgenderism without jaundiced, publicly funded research being presented to skew the debate a certain way.

Appendix 1 Report on the online questionnaire

1. INTRODUCTION

As part of its inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020, Portfolio Committee No. 3 – Education conducted an online questionnaire to encourage public participation in an efficient and accessible way. This was the primary means by which community members were encouraged to share their views on the bill.

The questionnaire was not intended as a statistically valid, random survey. Respondents self-selected in choosing to participate. This means that respondents were not a representative sample of the New South Wales population, but rather interested members of the public who volunteered their time to have a say. It should be noted that the questionnaire was open to participants residing outside of New South Wales.

The online questionnaire was open from 18 January 2021 to 28 February 2021. The committee received responses from 62,687 individual participants including 41,012 responses from people who registered with a New South Wales postcode. This was a large and impressive response, highlighting the value of these online questionnaires conducted by the Parliament.

This report summarises the results of the questionnaire and provides a sample of views on the bill. For questions 2 to 7, this report presents data from responses registered with New South Wales postcodes.

Due to the large volume of responses received, the analysis of answers to questions 8 and 9 is based on a representative sample of views in support and opposition to the bill from responses registered with New South Wales postcodes.

The questionnaire consisted of ten questions: two administrative questions collecting participants' basic details and information (questions 1 and 10); six multiple choice questions (controlled input); and two open-ended free-text questions. Questions one and two were mandatory. The remaining questions could be skipped if the participants chose to do so.

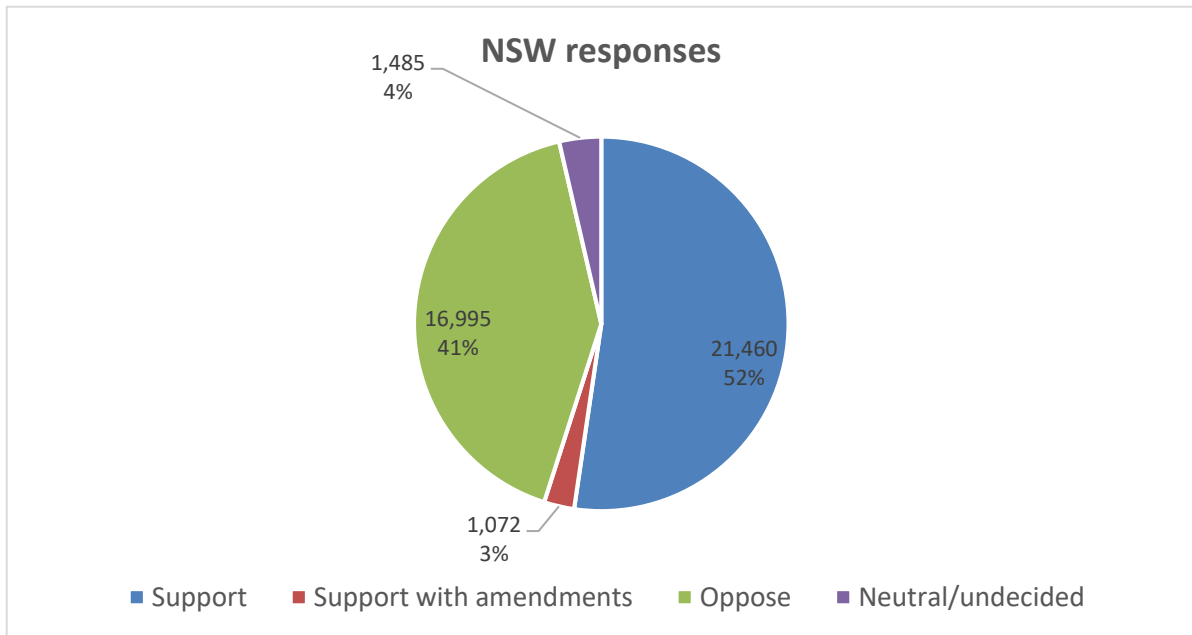
The questions are reproduced at the end of the report.

2. ANALYSIS OF RESULTS

Question 2: What is your position on the Education Legislation Amendment (Parental Rights) Bill 2020?

Question 2 was a mandatory question presented in a multiple choice format. Participants were able to choose from the following options: 'Support', 'Support with amendments', 'Oppose' or 'Neutral/Undecided'. The question received 41,012 responses from people who registered with a New South Wales postcode.

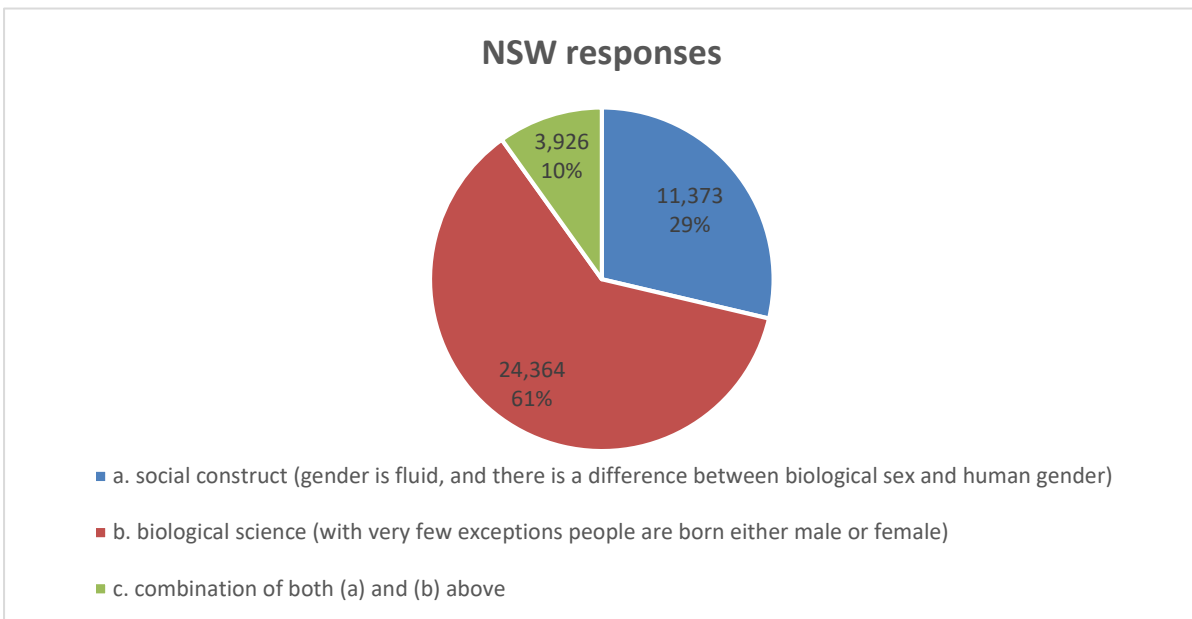
Overall, 55 per cent of respondents supported the bill (with and without amendment), 41 per cent opposed it and 4 per cent were undecided.



Question 3: Should schools be teaching gender as:

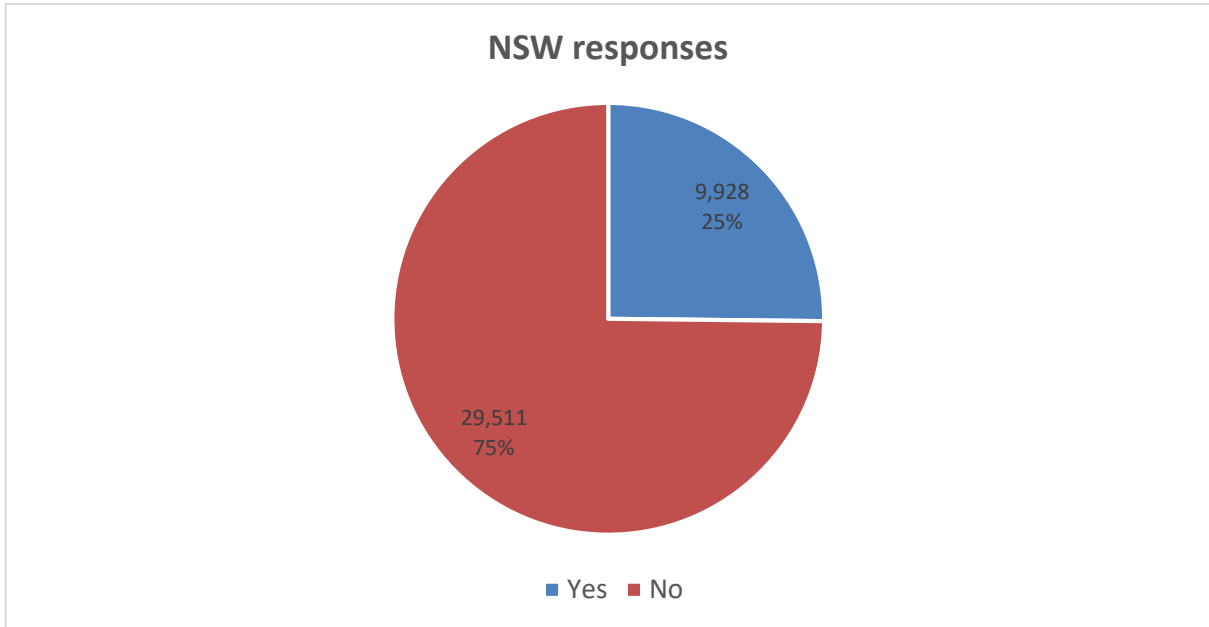
- a. social construct (gender is fluid, and there is a difference between biological sex and human gender)*
- b. biological science (with very few exceptions people are born either male or female)*
- c. combination of both (a) and (b).*

Question 3 was an optional question presented in a multiple choice format. It received 39,663 responses registered with a New South Wales postcode. Overwhelmingly, the vote was for (b), biological science (61 per cent).



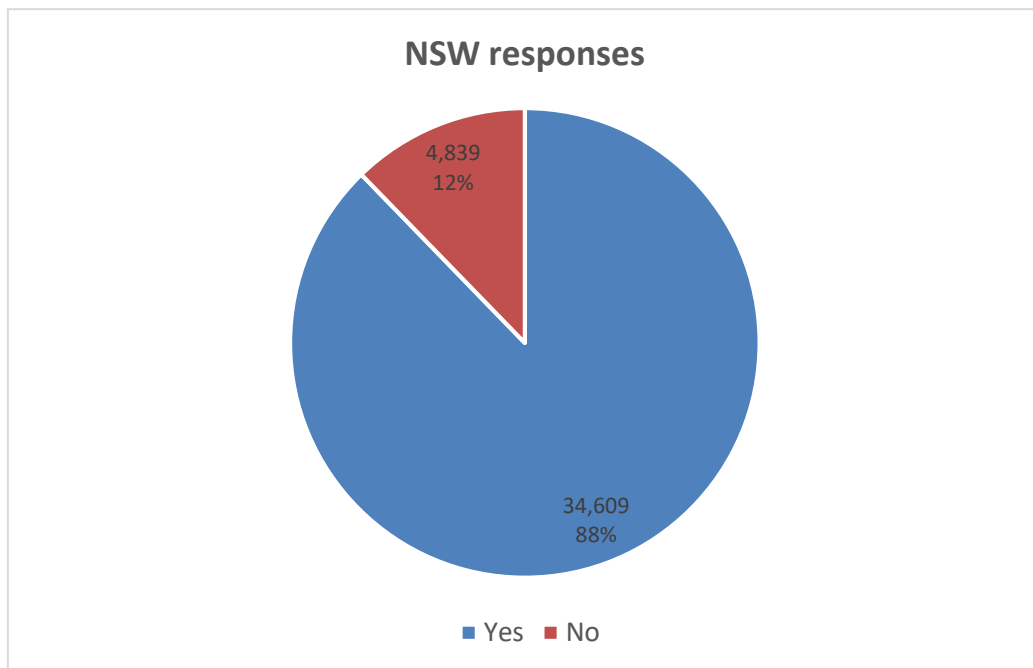
Question 4: Do parents have enough say about what is taught in the classroom?

Question 4 was an optional question presented in a multiple choice format. Participants were able to choose from the following options: 'Yes' or 'No'. It received 39,439 responses registered with a New South Wales postcode.



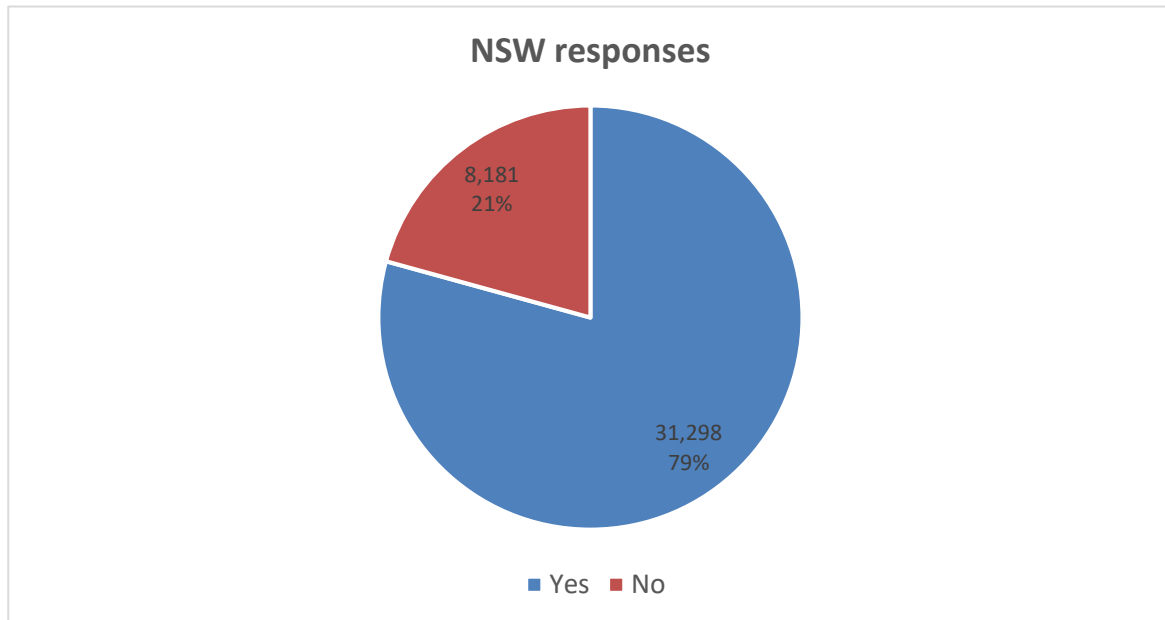
Question 5: Should parents be provided with an extensive outline of the curriculum at the start of each school year?

Question 5 was an optional question presented in a multiple choice format. Participants were able to choose from the following options: 'Yes' or 'No'. It received 39,448 responses registered with a New South Wales postcode.



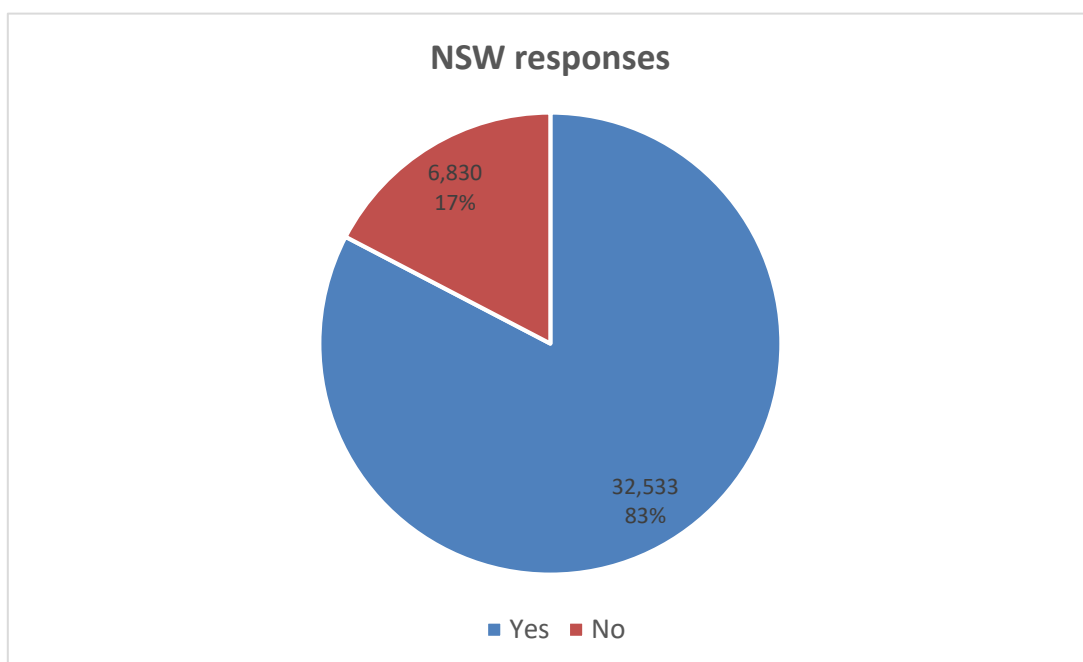
Question 6: Should parents have the right to take their children out of the classroom if what is being taught does not agree with their social and moral values?

Question 6 was an optional question presented in a multiple choice format. Participants were able to choose from the following options: 'Yes' or 'No'. It received 39,479 responses registered with a New South Wales postcode.



Question 7: On matters concerning a student’s gender and sexuality, do you agree that parents are primarily responsible for the care and guidance of their children?

Question 7 was an optional question presented in a multiple choice format. Participants were able to choose from the following options: 'Yes' or 'No'. It received 39,363 responses registered with a New South Wales postcode.



Question 8: Do you have any other comments on the bill?

Question 8 was presented as an optional free-text question. It received 37,689 responses in total. A sample of answers is provided below outlining the key reasons why respondents supported or opposed the bill.

Support for the bill

Among questionnaire respondents who expressed support for the bill, the following key themes emerged:

- the usurpation of the roles, rights and responsibilities of parents
- the lack of transparency in classroom content
- the concern that gender theory is unscientific
- the concern that teachers are not qualified to teach or provide counselling/guidance on gender issues
- the concern that teaching gender fluidity is age-inappropriate and therefore confusing and harmful to children
- the concern that teaching gender competes with teaching time/detracts from the basics of education
- the concern that teaching gender fluidity gives disproportionate focus/influence to one small minority group
- the concern that teaching gender fluidity in schools is an over-reach by the state

Usurpation of the roles, rights and responsibilities of parents

'How sad that we are at a point in Australia's history where societal decline, loss of respect for the family and over-reach of certain MPs and bureaucrats, mean we now have to legislate to protect against an attempted usurpation of the most basic of natural relationships - that of parent & child. Most good teachers (many of whom are parents themselves) would never wish to become instruments of such usurpation. They respectfully consolidate and uphold the good work of loving parents.'

'Teachers have a trusted role for the 12 or 13 years out of the many decades offspring live. They are one of an array of trained professionals whom parents seek services from along the way - including doctors, coaches, counsellors, and so on. Teachers get to pass on or enhance literacy and numeracy skills and the content of specific subjects such as history, science, geography, and so on. They do not, via that role, get to usurp the parental role of shaping the child's political, moral, spiritual and psycho-social formation. The teachers may consolidate the tenets of the parents' religion, with full transparency of planned input and informed consent from the parents. The teachers may reinforce manners and the school's efficient functioning & co-ordination rules. There is no ethical remit which allows teachers to go further. This is an obvious proposition, but given there is evidence that trust is being abused (or being planned to be abused), then legislation has sadly become necessary. It is not for teachers to teach highly controversial unscientific, intimate, morally problematic material which falls well outside the ambit of legitimate scope of material. Not only is it beyond the remit, it breaches trust in the relationship of teacher-parent and teacher-child. Trust is vital in these relationships, for the best outcomes. Teachers gain respect when they humbly respect their role. They destroy respect when they presume to over-reach.'

Lack of transparency in classroom content

'I believe a lot of parents are not aware that their children will be taught about the gender fluidity at school. This matter is very critical to Australian families. So public debating on this topic should be arranged.'

'... schools should be transparent with parents about what is being taught in the classroom, parents should be consulted and involved in what happens in the classroom, and should have final say over what their children are taught and given the option to remove their child from lessons where views shared are opposed to those of the family.'

'There is too much scope for teachers to impart their woke ideas to students, with no-one there to see or hear what's going on, or to even find out! So requiring to be told up front is good but can you trust teachers to stick to the script?'

'For too long parents have been kept in the dark about content their children are being taught and exposed too, thus are unaware of what conversations they need to be having at home to help children address these issues.'

'I have been disgusted at the lack of communication with parents on a whole range of subjects being taught at school. We should be sticking to straight up science, mathematics and literature. Stop worrying about political correctness and start giving our children a proper Education, learning critical thinking instead of indoctrinated thinking.'

Gender theory is unscientific

'Remove gender fluidity it is inconsistent with science. Parents should be able to allow their children to learn what is consistent with their moral, and religious beliefs.'

'As someone with medical/scientific training if you have a Y chromosome you are male and if not you are female. That covers all the variations eg XXY etc. Hormones can change outward appearances but genetics is not fluid. Gender fluidity teaching is simply social engineering. Schools should keep out of it.'

'...it is also especially important that matters such as gender, sex, and sexual orientation are taught first and foremost from a perspective of biology, science, and fact, rather than from a "social science" or "social justice" perspective. I support this bill in re-censoring the education of sex and gender on the basis of biological fact.'

Teachers not qualified to teach gender

'I firmly believe that ... government schools have to inform and show what will be covered in the teaching content so parents can make informed decisions about their children's education. Gender theory or fluidity should not be taught by teachers in a school setting. They are not trained counsellors and do not have the capacity to support students who would be affected by this theory being taught.'

'... Schools need to provide psychologists to deal with parents and kids having trouble dealing with the sexuality - it is not the role of teachers.'

'In the present climate, too much emphasis is placed on gender fluidity. Teachers are not clinicians.'

'Our teachers and schools have an extremely difficult and challenging job, forming the minds of our children and as such influencing our futures. However what our schools and teachers are not is philosophers, psychiatrists or political and social experts. To ask them to fulfil this role by imposing radical theory on the schools to teach our kids is unfair and very wrong.'

Parents and society must not be allowed to abrogate their responsibility for the guidance and growth of their children into unique individuals by leaving it to schools and teachers. These issues are too much responsibility and much more advanced than our teachers have training for.'

Teaching gender fluidity is age-inappropriate and is confusing and harmful

'This is a confusing issue for adults, let alone children, who need no exposure to it until later in life. Why aren't we letting kids be kids, and when they actually go through puberty and sexual exploration later in life, addressing these issues the come up then, in a different environment.'

'Children are so very impressionable and if exposed to radical gender ideology at a young age, then they will most likely question their own identity, instead of enjoying their childhood as a 'boy' or 'girl.'

'If this new ideology was to be taught in schools to our children at their impressionable age, I believe we will end up with a confused and hurting generation of young people, unsure of who they are. This will negatively reflect on their mental and psychological health as well as on their ability to function normally in this world.'

'I am concerned that the notion of gender fluidity is being normalised over the biological reality of (in the vast majority of cases) people's sex and gender being aligned. It is confusing and unnecessarily complicated for young people working through the normal passage of adolescence to have to question their identity in this way and at this vulnerable stage of life. Gender is NOT fluid in the way this notion suggests it is, and to teach this as a given fact is wrong.'

'It is a sad situation when our precious children are subjected to "knowledge" long before they are able to understand which causes confusion and self-doubt. Let our children be children for as long as possible. Adult responsibility comes to them soon enough!'

'Gender is determined at birth. It is not arbitrary or up for discussion. So much confusion is being caused for young people by questioning and opening this up and consequently mental health issues and its associated destructive behaviours have become even more prevalent.'

'Teaching of sexuality and choice of sexual preference and the small percentage of citizens who choose gender reassignment treatments should not be included in school teaching until at least post puberty. Young children should be left to gradually learn about the social and sexual choices they will face later in life when they have a degree of physical and intellectual maturity that we could expect will allow them to understand the potentially long term implications.'

'Schools should focus on Education to prepare our children to lead meaningful and productive life. They are not mature enough to be deal with gender issues. The time to deal with it is when they are adults. Our youth are already dealing with mental health issues, please don't add to the issues they have to deal with, particularly when they are not ready. The bill is a step in the right direction.'

'Children in primary school are very impressionable and listen to their favourite teachers opinions more readily than their parents. Kids want to please favourite teachers or friends by going along with whatever that person says is cool or right (even if it is neither). They are far too young to be influenced on this topic without parent consultation because they do not have the proper decision making or forward thinking skills to make decisions that will affect the rest of their lives.'

'As a parent and teacher I despair at the confusion that is being perpetuated by minority ideologies. This bill is fundamental to protecting the rights of children to live their childhood and enjoy their education, free from damaging adult agendas. These concepts are confusing and challenging to growing minds. I have been a teacher for more than fifteen years and I can confidently say that children do not understand the subtle complexities of these issues. The repercussions cause confusion, stress and anxiety.'

'I want to say that teaching Gender Theory to adolescents is a dangerous thing. This is because, young people do not have the reasoning capacity at a young age and they do possess the emotional maturity to engage with material that essentially questions the paradigm of existence that they inhabit. ... This type of information (Gender Theory) is at best studied as a University or TAFE subject in certain courses. This is because it is assumed by this stage (18 years and over) a young person will be more mature. I think if this material were let inside of the schools, I think this would be a form of psychological abuse for students to be exposed to such material.'

Teaching gender fluidity competes with teaching time and detracts from the basics

'Teachers should focus their time on teaching reading, writing and numeracy - the skills that really matter - and not be encouraged or forced to allocate valuable teaching time to questionable ideologies that many parents do not subscribe to.'

'Schools need to get back to basics or our children will be unprepared for a successful and happy future.'

'The curriculum is already so overcrowded, no wonder our learning levels in this country are so low.'

'[Gender fluidity] should not be taught in schools. There is already a packed curriculum. Time should be spent teaching the essentials.'

'The demise of traditional curriculum-and by that I mean a focus on literacy and numeracy and the development of a person's analytical skills-has occurred almost imperceptibly over the years. Having been a teacher for over 40 years I have seen fads and lobby group politics infiltrate the classroom via curriculum "inclusions" presented as a response to "changing times" Responding to changing times is best done by developing a person's critical faculties to investigate and come to a determination on a subject based on good research skills not the forced feeding and adoption of a belief that has the stench of a political bias presented as giving the child the expression of freedom of choice. Choice is based on decision making between options. No options are presented in this Fluidity of gender argument.'

Teaching gender fluidity is catering to the minority

'We need to maintain respect for all in this. A very small percentage of the population will change gender, and yet the amount that we hear about this in our society is great - it is out of proportion, and makes it onto a huge issue, when really those who are changing gender deserve respect, along with those who choose to remain their gender.'

'[The bill] restores the rights of parents to be able to provide parenting which have been savagely eroded by a non-representative minority group.'

'Minorities should not be given precedence over the majority.'

'Australia is a Democratic form of Governance. As such, the true democracy requires that the majority opinion of the population and not a minority's view should be adhered to in all matters of citizen's rights, how and what is set as law or proposed changes to same.'

'A baseless, pseudoscientific topic such as gender fluidity is being taught to everyone so as to be inclusive to the very few.'

'In catering to the minority, the majority are being swept up in legislative changes that will have long-lasting destructive effects upon our social structure and communities. The impact of teaching our young children gender fluidity as a norm will create serious mental health issues in the generations that follow (far more deleterious than what the teaching of gender fluidity sets out to address).'

Teaching gender as an over-reach by the state

'... we need to implement the boundaries which the state cannot overstep in family life. We know that political parties come and go, and not every party will have a true and caring interest in the children of the land. How is it possible to leave such important guidance to the state?'

'The state and the educators should not have the overriding rights over parents. If there is discrepancy in thoughts and attitudes on certain issues between the two parties (school and parents), there should be a framework of discussion with true and genuine respect of the religious and ethical views of the parents, and to come to a consensus rather than using legal instrument forcefully.'

'...the state should not have the right to force secular, religious or sexual views down the throats of children who are there to learn reading, writing, maths, science, geography.'

'Parents are the ones who raise their children. We cannot allow the state system to take over raising our kids for us. The state are not the ones who love the children like we as parents do.'

'Australia must not turn into a "Brave New World" society where the state rather than parents bring up children and decide what is best for them or the results will be disastrous. We need laws protecting families and parent rights.'

'The state should be interested more in education, rather than indoctrination. Cutting parents out of process of education is a dangerous over-reach of the state.'

Support with amendments

Some respondents expressed support for the bill's objectives and overall intention, but qualified their support by highlighting what they considered to be problematic elements of the bill or the potential for unintended consequences should it be enacted in law as drafted. Issues included:

- the ability of schools to provide guidance and support for students in need
- support for teaching gender to certain age cohorts only
- reconciling the bill's objectives with the need for compassion and respect for others
- concern about the bill's unintended consequences
- teaching diverse views without bias so students can make their own choice
- 'impractical' elements of the bill

The ability of schools to provide guidance and support for students in need

'I don't agree that teachers and councillors cannot address the question of gender in private, due to some religious beliefs I don't believe it should be taught as such in class (I would be

fine with it but other religions would not) however if approached I believe students should be able to have a conversation and guidance.'

'We are not for gender fluidity (our understanding of it), and basically agree it should not be taught at primary and high schools. However, we would be concerned about the situation that a child may have a question or questions (whether about themselves or others they know) or some genuine concerns, particularly to the extent they may feel worried or stressed. ... It seems reasonable that the child is able to first discuss this with parents privately and/or the parents find or refer the child to an appropriate individual who they think their child could talk to about anything relating to this (should they decide).... It also seems reasonable should the child privately approach a counsellor (or similar), that the counsellor listens and first supports and refers to the parents and maybe also seek who the parents would like their child referred to. However, there may be situations where the child is not able to access that or it is not adequate etc. Therefore, a child should be able to privately approach and talk with a chaplain of their faith or similar faith including at school, and/or a counsellor or pastoral carer. ... I think these might be examples of reasonable situations where a child and certain school staff can 'talk' or 'listen' about such related topics.'

Support for teaching gender to certain age cohorts only

'I strongly believe that gender fluidity should not be taught until the age of 16 when Sex becomes legal for them to participate in.'

'I think it is appropriate to teach an awareness of non-traditional views as society evolves but only to senior students (years 10 up)'

'I agree with the thrust of the bill but point out that there is a vast gulf between kindergarten and year 12 on the K-12 spectrum. There maybe a requirement for Stage 6 students(11-12) to deal with some of these issues in HSC course work.'

'Age appropriateness would be my number one concern. Tolerance in the midst of disagreement is of large importance but gender fluidity should not be talked about before around year 5-6 and only with parents prior consent and notification. It's important the parents can know what is being taught on this so they can have honest conversations with their children to help guide them and support them through understanding this is part of the world we live in.'

Reconciling the bill's objectives with the need for compassion and respect for others

'I acknowledge this is an area fraught with difficulty. There is a right priority to support those who are distressed by the experience of gender dysphoria. Yet, the transgender ideology has wrought great harm on many. ... This matter needs to be approached slowly and carefully. ... I recognize the deep need for respect and compassion, but this ideology is very new, has harmed many, and its helpfulness is yet completely unproven. It should not be taught as scientific fact.'

'While I believe that parents should generally have the dominant role in the development of morality in their children's lives there will always need to be a compassionate approach taken for the care of young people whose parents are rigidly inflexible and unreasonable where a child for biological or social causes does not identify with their biological gender. I do not believe that we should deconstruct the sound foundation of family life to meet the needs of a minority that do not fit within it or do not want to identify with it. Tolerance is always needed for people's individual values but primarily parents should be responsible enough to respect the chosen identities of their children at an appropriate time in their lives.'

'I think there should be an important distinction between sexuality and transgenderism. I think it's important to teach that we should treat LGBTIQI people with respect. But I think it should be equally important that the concept that two genders should not be treated as archaic.'

Concern about the bill's unintended consequences

'Nothing in the bill should preclude the teaching of scripture/religious studies in schools. The bill should be focused on curriculum or individual teachers are not enforcing a social construct in the classroom.'

'I do not agree with how broad the amendments relating to 'matters of parental primacy' are, as this could lead to unintended consequences when teaching a broad range of political, scientific, and social issues in class, and which parents can correct their children on in the home if they do not agree with what is taught in class. I would prefer if the amendments relating to 'gender fluidity' and 'matters of parental primacy' were proposed in separate bills.'

'I hope there are no inadvertent repercussions for Special Religious Education (SRE) to continue.'

'I think care needs to be taken in giving parents the right to remove their child from class, because this could have a number of unintended consequences. We shouldn't be at the stage of needing to remove children from class anyway because content that is politically one-sided or controversial, such as gender fluidity, should never be taught in the first place.'

Teaching diverse views without bias so students can make their own choice

'I believe that rather than silencing others and trying to prevent our children from ever hearing the ideas, which is rather difficult given the accessibility of the internet and their peers' perspectives, a better way of teaching would be to show them the differing perspectives and to seek to persuade them to willingly choose against the beliefs we believe to be wrong. I believe schools will inevitably reflect the trends in the rest of culture, but what is important is that no matter what the current trend, schools should continue to respect diversity and foster critical thinking.'

'Moral, ethical, political and social perspectives should be taught in schools without bias to give students well rounded information to be sufficient for their own choices.'

Reconciling the bill's objectives with freedom of speech and association

'I agree that parents should be informed and have the choice whether or not to expose their children to ideological and values teaching, however I disagree in the method of prohibiting the teaching of a particular issue. I think it is in part a violation of the right to free speech, just like prohibiting a teacher sharing their Christian beliefs is a violation of free speech.'

'If they want to teach this it should be like scripture. The parents must agree and it's taught only to those who want it, at least then everyone gets what they want.'

'Impractical' elements of the bill

'I don't think it's practical for schools to consult with parents on the entire curriculum at the beginning of every school year. However, I do agree that gender fluidity should not be taught at school.'

'I do not think that it is realistic to expect NSW Education to provide an extensive breakdown of curriculum to all parents. Rather, NSW Education should ensure that the rights of parents to shape a child's values be upheld. Moreover, such actions should be inspected to ensure that they are carried out.'

Opposition to the bill

Among opponents to the bill, the following key themes emerged:

- that the bill is out of step with current thinking and social acceptance
- that teaching about difference and diversity does not make children trans
- the importance of schools and teachers as supportive and safe environments for LGBTIQ+ students
- concern about the bill's impact on the health and wellbeing of LGBTIQ+ students
- that the bill is unnecessary as parents already have rights in existing legislation
- concern that the bill allows exclusion and discrimination
- concern that the bill trespasses upon children's rights and international human rights conventions
- concern that the bill gives precedence to parents' rights to the detriment of children's rights
- concern about the bill's impact on teachers

Perception of the bill as antiquated and out of step with current thinking

'The Bill is unnecessary, drafted poorly, and is a piece of legislation drafted for 1956, not 2021.'

'I consider aspects of this bill to be a huge regression in LGBTIQ+ rights and education and feel it is out of step with the contemporary state of things. Some of the proposals in this bill will contribute towards ongoing discriminatory attitudes towards LGBTIQ+ people, which is contrary to Australian values of providing equality of opportunity.'

'The bill would greatly impact the students I teach. Students need to feel supported and rejecting or ignoring their lives is not something I'm comfortable with. It's the 21st century and the bill fundamentally seeks to send the education system into the 1950s.'

Teaching about gender diversity does not make children trans

'Telling a kid that some boys feel like girls, won't make them a girl (and vice versa) - in the same way that teaching about homosexuality doesn't make a kid gay. The whole point of schooling is to teach them about the world around them and the people in it.'

'From what I have seen, schools are trying to foster understanding of difference and tolerance by educating kids about the situation a small minority of the community experience - I don't see any evidence of encouraging kids to question their sexuality or gender. They need to be educated about the circumstances of others in the community to minimize stigma and discrimination against a very vulnerable group of kids. This Bill is unnecessary and designed to be divisive.'

'Teaching children about the construct of gender, and how it's socially reinforced and policed to some degree, doesn't *make* children trans. It allows those who are trans to live a life a little less full of hate, shame, bullying lack of self-worth and community.'

'Trans kids are born that way and they should be taught to express themselves and by teaching this and supporting this in schools, it's not turning kids trans, it's informing non trans people its normal for their peers to be trans and teaching trans kids to express themselves whenever they are comfortable.'

The importance of schools and teachers as supportive and safe environments for LGBTIQ+ students

'I'm a non-binary person and when I was in high school I had a science teacher talk for part of a lesson about gender being more than male and female, about intersex and trans people. This was really amazing for me to hear, I was struggling with my gender identity at the time and having a science teacher validate that gender is on a spectrum and there's much more than male and female filled with joy and validation. School must be a safe place for lgbti+ students, we are more vulnerable to suicide.'

'I have a transgender 19 year old son. I know that the support environment that my child received ... at High and was a very big part of his safe and happy journey through school. I know that being transgender is real and that feeling acknowledged and accepted is central to mental health for transgender kids and adults. I also know that school counsellors are sometimes the first place kids go to with troubles.'

'When I was in high school (years 11 & 12) I had an English teacher Mrs . In her classes I was enlightened on the complexities and diversity of the human experiences. This included understanding the difference between biological sex and gender, as well as sexuality. Without this education myself and others in my class wouldn't have been opened up to the world of inclusivity. This allowed me a safe space to be able to explore my own understanding of my gender and sexuality. Which previously has caused me great strain on my mental and physical health. Without opening up a dialogue of understanding and nurture around sexuality and gender we alienate LGBTQIA+ people, which in turn causes an increase in negative mental health. I strongly oppose this bill as it infringes on queer peoples human rights to education and safe spaces within the educational system.'

'Supportive caring and understanding teachers in my old school literally kept the gender questioning & queer students alive when they were going through distressing/confusing times because of their non-judgements and open attitudes. A school has the power to do good - it can be a refuge or a stifling prison.'

'I went to a conservative, religious, private school. At the time I was struggling with my gender identity, and by the time I was in year 11, I needed to come out. The school instructed my teachers not to use my preferred name or pronouns, but one teacher did. Her support and care helped me immensely, by allowing me to focus on my school work instead of my identity. She made me feel respected.'

'As a transgender woman who went to school in the 1970/80's I would have loved for a teacher to explain that it is OK to be transgender or otherwise different. This would have made my life so much easier and way less harmful. It took me a further 40 years to discover that it was OK to be my authentic self and finally be happy. Please do not allow this bill to be passed, transgender and gender fluid children and young adults should not have to endure the shame, fear, hiding and self-loathing and harm I experienced, putting their lives and future at risk.'

'As a gay Aboriginal man, if it was not for my public school teachers educating me on all matters in relation to the variety of communities, peoples and histories, I would not have been able to grow into the citizen I am today. If it was not for the teachers of my nephew he would have committed suicide – if was not for the teachers that listened to him and the struggles he went through in transiting in a country community. Public school teachers have saved our lives.'

Concern about the bill's impact on the safety, health and wellbeing of LGBTIQ+ students

'This bill will cause real harm to kids who are different and may be struggling with their gender or sexual identity. Kids who are gender diverse or are same sex attracted already experience high levels of stress, anxiety and depression and they need all the help they can get, in particular support through the education systems. Many parents are not well informed and may not have access to reliable information and are driven by religious or other ideological considerations. Giving them this power will only harm already struggling kids and lead to disastrous outcomes.'

'If this bill is adopted I have real concerns for the mental health of LGBTIQ students. The suicide rates for this community is significantly higher than the general community so they need more places where they feel supported and accepted. Schools do and should play a significant role here.'

'This bill as it stands is highly damaging to the mental health and rights of those of us in society who are at current one of the most vulnerable and marginalised groups. This Bill would be used to justify bigotry, hate and misinformation surrounding LGBT+ peoples. The role of a teacher is to support all peoples, regardless of their identity, and to enforce teachers to exclude even a single student and make them feel as though they have no place is not only completely unacceptable, it is at its core, un-Australian.'

'It is directly harmful to some of society's most vulnerable children. In a similar vein to the 'gay panic' of previous generations, this is an attempt to repress a real need for education and understanding of serious issues. Being transgender (like being gay) is not a choice, by hiding information and forcing children into repression this bill will cause real and lasting harm.'

'I'm transgender, and I'm really worried that this bill is going to justify the way that some of my classmates bully me, and make it worse. I'm also scared that halting teaching about the existence of trans people is going to put me in danger. I really hope that this bill doesn't pass, so that students continue to learn about what it's like to be a trans person and thus might not bully me as much.'

'This bill endangers trans and gender diverse young people, having their cisgender peers ignorant to the issues faced by this marginalised group results in transphobic bullying, a huge contributor to the disturbing and disproportionately high suicide rates seen amongst trans and gender diverse young people. This is an issue of safety and human rights.'

'The suicide rate for trans children is unacceptably high, in part because of parents who reject them, but also because schools fail to provide inclusive and supportive education. This bill is just another cruel attack on the most vulnerable members of our community: trans children. ... Teachers have the potential to be the source of information and support that so many children need. This bill unnecessarily ties their hands at the same time as it demonises the LGBTIQ community - who are also teachers.'

'My daughter is transgender and attends primary school. If her teachers showed her no support or wasn't able to help other children understand not to bully her, my daughter would suffer greatly. ... This bill may just cause young LGBTQI+ kids to die of suicide.'

'It is not possible for us to provide gender diverse children with a safe and inclusive learning environment so long as we refuse to acknowledge them, any more than we can provide religious minorities (Muslim, etc.) with a safe and inclusive learning environment while arguing that their religion is invalid or inferior.'

The bill is superfluous because parents already have rights in existing legislation

'Parents have complete access to curriculum at present. They can also request their children be removed from the classroom if they are opposed to the content.'

'This bill is nonsense. Parents can already ask for curriculum documents, withdraw their children, and schools are already inspected for compliance with NESA guidelines.'

'Parents already have access to the curriculum. They are public documents. There is no need for anything further.'

'The Education Act 1990 (NSW) already stipulates in s 4(b) that 'the education of a child is primarily the responsibility of the child's parents'. It is unnecessary to explicitly spell out that the Bill amends the Act '(a) to clarify that parents and not schools are primarily responsible for the development ... [of] core values such as ethical and moral standards, social and political values...' This is already implicit in the current version.'

'As an educator, I understand parental concerns about content. However, the law already gives them the right to discuss this with me, and for my school/employer to determine whether I have been professional in my approach to teaching the content. I have rights as an educator too.'

Concern that the bill allows exclusion and discrimination

'This bill seems to be designed to allow discrimination against students who are transgender or who feel that their gender doesn't match their biological sexual appearance.'

'It is unconscionable to be legislating to make it so children cannot be taught about the existence of a group of people protected by anti-discrimination legislation unless their parents consent to it. Trans people exist, we are protected under federal and NSW anti-discrimination laws, and it is impossible for us to be treated equally if parents are allowed to veto their children even knowing we exist. ... This legislation will thus both harm trans children and enable continuing discrimination against trans adults in NSW.'

'This bill makes it acceptable to discriminate against the LGBTQ+ community and is incredibly homophobic and transphobic. Our government should not even be considering such harmful legislation.'

'The bill is dangerous in that it discriminates against sexually diverse children and adults who have no control over their biology. People are born female or male as assigned at birth, but may not actually be one or the other. Schools should be places of refuge and safety, not discrimination.'

The bill trespasses upon children's rights and international human rights conventions

'[The bill] ignores the human right of LGBTI young people to learn in inclusive, supportive environments, free from discrimination, which are enshrined in international human rights instruments to which Australia is a party. [Regarding] Australia's international human rights obligations, Australia is a party to the United Nations Convention on the Rights of the Child. Australia signed the CRC very soon after its inception and the Convention remains the most ratified international human rights law convention.'

'This bill undermines Australia's international commitment to inclusive and equitable education and will create exclusionary learning environments for students, particularly those who are gender diverse.'

'I am concerned about the consistency of this Bill with Australia's obligations towards children and young people under international human rights law. Australia ... is obliged to ensure that, in all actions involving children, the best interests of the child is to be the paramount consideration. It also requires that Australia protect children against all forms of discrimination (including gender discrimination), that children have access to information about their physical and mental health, and that children are given access to the highest attainable standard of health through education. This Bill appears to be contrary to those principles, in that it seeks to remove the already very limited access to information and support available to LGBTI children and young people in NSW schools. It does not prioritise and protect the health and safety of these children.'

'This bill is in direct opposition with Article 26 of the declaration of human rights, which states that everyone has the right to education, and it shall promote understanding, tolerance and friendship between all nations. This bill undermines all student's right to an inclusive and comprehensive education. It prevents the rights of all students to access a safe learning environment, which will have significant negative impacts on health and well-being, especially to anyone belonging to any kind of minority.'

The bill gives primacy to parents' rights to the detriment of children's rights

'Giving parents 'exclusive rights' over a child's education limits the child's autonomy and ability to learn different points of view. This is the kind of bill that keeps children trapped in abusive, cruel homes where parents are allowed to tell them that their teachers, scientists, and the very government itself is wrong and they alone 'know best' even if this is not the case.'

'As an accredited primary school teacher who has taught transgender students, I cannot oppose this bill strongly enough. When you concern yourself with the "rights of parents", you forget the needs of their children. Transgender children have a right to see themselves in various media and be acknowledged in the classroom for who they are.'

'If my parents were the primary source of information regarding my gender and sexuality I would not be alive today... My human rights should be worth more than my parents' religious opinions.'

'I think that parents absolutely have responsibility for care and guidance of their children so long as it does not erode the rights of others, particularly underrepresented groups and particularly children. I am a parent and a teacher and have been very touched to see the acceptance children generally show to other children who are gender diverse and different in general. Unfortunately in our communities prejudice and intolerance is often taught by parents and families. I think we all can see the terrible pain this has caused and continue to cause in our world. I do think that teachers can do their bit to encourage tolerance and acceptance of diversity in our kids.'

'Parents have the right to teach and guide their children in all aspects of life including morals, political, sexuality, etc. However, children also have the right to know other positions and ideas about all aspects of life to become engaged and knowledgeable, active participants in society. The parents have the right to teach them what they would like them to believe but the child also has the right to choose.'

'It should not be a parents right to deny their children access to information and understanding about basic human rights to self-determine. Parents might not agree with contraception, evolution, consumption of alcohol or religion, however students are rightly able to experience classes and educational experiences that equip them to consider and form their own views and beliefs on those matters. Gender fluidity is no different from any other of these concepts.'

Concern about the bill's impact on teachers

'The Bill as currently drafted threatens the job of any teacher or school counsellor who affirms or teaches the existence of gender diverse people, or provides them with support.'

'The bill is also highly prejudicial towards teachers, gagging them from being able to teach inclusion and diversity which are vital educational values.'

'To threaten teachers with the revocation of their accreditation, and therefore their means to a livelihood, simply for discussing and affirming the lived realities of students is fundamentally wrong, threatening and deeply dangerous. Many students are lucky enough to have family networks that are open and supportive of their children's identities - however, there are far too many who are not. For those students, having a safe place in a school, where their lived experience can be affirmed and accepted, is a crucial and often life-saving sanctuary. To tell teachers that they can no longer do their jobs of supporting the students in their charge for fear of retribution and possible destruction of their entire professional career and identity is unconscionable.'

'Teachers who support marginalised communities are a crucial and important part of dismantling prejudice and hatred and should not be penalised for this.'

'Teachers should not be punished for celebrating and discussing DIVERSITY. ... This Bill will deny LGBTQ+ students from feeling that they belong to their school communities and deprive them of feeling safe and hopeful for an inclusive future. ... Many LGBTIQ+ students rely on their teachers, school friends and school counsellors for vital support for their mental well-being. I know this because I am a teacher and have witnessed many situations where LGBTIQ+ students needing the school's support.'

'No teacher should ever be penalized or censured or threatened with losing their job for supporting ANY student, be they heterosexual or LGBTIQ or anything else.'

Question 9: Please provide any other feedback on how schools communicate information to parents and broader school communities? What works well and what improvements could be made, especially during the COVID pandemic.

Question 9 was presented as a free-text question. It received 26,086 responses in total. Key messages touched on:

- general comments regarding what works well/positive feedback on communication with parents

- general comments regarding what doesn't work well/areas for improvement
- advocacy for parent portals
- parental responsibility for staying informed
- the public availability of syllabuses
- the need for greater transparency when course content or syllabuses are amended
- communicating the right kind of information
- differences between the public and private system
- proposals for parent surveys and meet-the-teaching staff evenings

What works well/positive feedback on communication with parents

'Newsletters work well for general school updates and information, however talking directly to teachers about class-specific topics through means such as email and teacher interviews has also proved effective even through COVID. Any parental concerns can easily be discussed with head teachers who make their contact details easily accessible.'

'My children go to public schools and I am so impressed by the quality of the communications I receive. This includes weekly newsletters, e-mail addresses of their teachers and the principal, seesaw and sentral. I feel I am totally across what is planned for the year ahead and that I am given weekly, if not daily communication. This is one service from the NSW State government that I cannot fault. World class.'

'Phone calls and on-line platforms such as SeeSaw have been the most effective form of communication in our community during the COVID pandemic.'

'School face to face meetings between parents and teachers; zoom meetings when face to face is not possible; information sessions at the start and mid-point in the school year; regular emails regarding curriculum development and progress – all of these work well.'

'School information evenings and parent teacher meetings are always valuable as also is having an active P&C. Regular communication through emails and other digital media. Small group discussions and ideas boxes.'

'Having online platforms to release new information and notifications regarding school events or updates have extremely useful. Emails and parent-teacher interviews are effective as well.'

'Student diaries are a good method of communication between students, teachers and parents.'

'Parents are notified via letter prior to any unit of work discussing what the department deems 'controversial'. The letter outline syllabus content and invites parents to view material and discuss content with the teacher. This has always worked well and prompt conversations with families as needed. Suitable alternatives for content and tasks are negotiated in the event of a parental refusal to cover content, while remaining in line with syllabus requirements.'

'I like the app my kids' preschool uses for communication, called xplor. schools could use a similar app to send photos of books read, topics covered and activities done in (PDHPE, history/geography etc) that day/week or term, so that parents have a talking point with their kids about what they are learning and schools have more transparency/accountability.'

'Our school is a private school and communication is quite good and parents are notified about videos/movies being watched. Parental permission and information about courses is regularly given.'

'At our local public high school, since COVID, we are supplied fortnightly updates on what the students are covering in class. As parents, it allows us to better question the teenagers on homework, assessment, tease information out of them, rather than the rhetoric, "what did you do at school today?" question and the infamous response "nothing." I use the information supplied to talk to my kids on what is happening at school each week/fortnight.'

'Clear and transparent curriculum available on website and emailed to parents of enrolled students is ideal. Informative permission forms for any learning that may be controversial or sensitive.'

'I think teachers have done an amazing job in communicating with parents particularly in this time of COVID. It has added to their workload as well. I commend them for dedication to communicating to parents about the progress of their child.'

'This completely depends on the school. Some schools communicate very effectively, and some do not. Regular emails, and online portals, are effective ways of communicating.'

What doesn't work well/areas for improvement

'Parent information nights do not work for single parents who are unable to bring children and have no alternative care. Non-standard apps required learning and understanding, standard applications would be more suitable. Parents take most responsibility forming groups and sharing information. There is limited communication from the school in the first 5 weeks of term as they become organised.'

'Digital tools are an important communication tool, but there is general digital fatigue with parents. With this in mind, a balance of digital, print and where possible face to face should be encouraged. Parents often lack the time to fully absorb and understand the implications of changes, or the reasons why certain rules and regulations are in place. It's often only through the relay of experiences from other parents where connections are made.'

'What doesn't work is Facebook. My sons school communicates mostly through FB, but as I choose not to participate, I usually don't get the information we need.'

'We get nothing from our schools here for our children. Rural schools are thought of last and yet so many kids are suffering from bushfires recourse are small and yet we struggle through.'

'There has been little info unless you press hard but still you only get a broad overview of curriculum and hear later from kids what they been taught and as if it's science and true and if you believe in facts over feelings the kids get bullied.'

'Very little information is communicated between the school and parents. Often my children are taught things at school with strong issues raised, yet they are not fully discussed by the teacher or dealt with. Leaving my child either confused and coming home asking further questions. Years ago a note would be sent home when the class was going to be taught things like sex education, giving parents the opportunity to talk with their children first or withdraw them from the lesson if their child was not ready to hear that information. That no longer happens.'

'I find that the school newsletter is useful and informative, but it would seem that a better outline of coming curriculum input may not be happening, at start of year and ongoing, and may be much welcomed by concerned parents and community members.'

'Mobile apps work well for communication, but it needs to be consistent and there needs to be a way to submit questions.'

'Through social media/platforms where they can explain or communicate the information to parents and broader school communities. They should also entertain questions or any request immediately.'

'The bigger the school the less likely effective communication will occur. Parent Teacher nights can become a joke; we had one interview with a teacher who clearly had no idea who our son was. The sad truth is that this whole issue would not be an issue if the real problems of schooling were addressed; namely class size, and to some extent overall school size. Go visit any small country town school, where class sizes can be 20 or less, and witness teachers who not only know their students intimately, but also their siblings in other classes. Witness teachers for whom Parent Teacher night is not the one and only time they speak to a student's parent because they run into the parents on an almost weekly basis; at the shops, at the footy, at the fund raiser... When a community raises a child, they typically get the support they need to get them through the struggles they face.'

Parent portals

'Schools should set up their own channels of communication either via class parents or an engaged Parents and Citizens Association (P&C) for generalised issues. A good website with parent portals also work.'

'Introduce a parent portal to enable greater real time reviews of children's performance and behaviour at school.'

'Compass Newsletters and the Compass parent portal is a fantastic platform to increase the level of communication and information to be circulated.'

'Having parent portals has worked extremely well to ensure that everything that parents need is up there as well they are able to see our assignments and any changes to our education that they need to be aware of'

Parental responsibility for staying informed and engaged

'Parents have a responsibility to be active participants in their school community. Attend parent evenings, join the P&C, attend school sporting events, get to know their child's teachers. If they want to know what is taught in the curriculum obtain copies for each of their child's subject areas and take the time to sit down and read them. The school community is made up of teachers, students, parents and the wider community.'

'Our school has been very visible on social media during the pandemic and now we have an app to communicate with parents in our school. Staff also offer meetings with parents, information nights, fortnightly newsletters, Semester reports, mid-term reports, monthly P&C meetings and our school website. The Department of Education NSW have so much information provided on their website for parents and families. Anyone can Google the NSW curriculum to find out what their children will be learning at any given stage of development. Parents can be as well-informed as they want to be.'

'As a teacher, our school has many ways to communicate information to parents. Often we find that parents ignore these pathways and the information available to them.'

Syllabuses are already publicly available

'All parent have access to NSW syllabuses. These could be translated into community languages. Schools do need to communicate with parents more regularly. So to encourage this, teachers' teaching hours should be reduced.'

'Parents have ample access to curricula taught in schools via existing information on the Dept. of Education website.'

'The curriculum is available for all people to download from NESAs at the start of the year. If parents are proactive, they can ask teachers about their programs.'

The need for greater transparency when course content or syllabuses are amended

'We receive a bulletin. Other than that we can check the details online about each course, but if it is amended we have no idea what is being taught. It would be helpful if this teaching were separated and made optional and a heads up given about when it is taught – especially in sensitive areas such as gender and sexual practices.'

'Changes to the curriculum should be notified to parents with the option to withdraw their children from particular subjects with alternative subjects offered in their place – with no penalty.'

'The receipt of online weekly newsletters via schoolbag and the like is good but important changes and additions to the school community needs to be made known to parents and guardians to enable discussion, input and election.'

'Updates in legislation and how this affects the curriculum and outcomes in the school should always be communicated to parents, electronically or by information nights. Parents should be shown what the implications of this is.'

'Curriculum should be open for review online, particularly when changes are being set in motion by a few in power in the education department. A forum for each school (with the policies and curriculum they favour), should be available for parents.'

Communicating the right information

'At present I only receive broad information about topics my child will cover and no information about the school's stance or viewpoint on these topics. I would like to receive information on the outcomes and understandings the curriculum aims to achieve.'

'School websites could include clearer information about curriculum overviews, that way the website would be informative. Many are focused on promoting their school for enrolment purposes.'

'The schools only inform us of what they are doing event wise, or have already done event wise. They tell us little or nothing of what the course layout consist of and where the information is sourced from. We as parents need a more comprehensive overview of what information is being conveyed to our children.'

'In my experience, schools intentionally bury parents with too much irrelevant information – up to 10 pages or more of school news but they slip-in controversial issues among swathes of unimportant guff.'

'My experience of public school education in NSW was that information was supplied around practical matters (excursions, special events at school etc). What was missing (which I currently now receive from my school in the private schooling sector) is the rationale and philosophy behind why things are taught and how they are taught. There is much more transparency in my private schooling sector about the moral and religious values and ethics that underpin what the school teaches.'

'Schools in my experience communicate information to parents via brief direct emails to parents or very short generalised summaries in school newsletters to the broader school community. The information is brief and non-specific. Parents are not informed of the specifics of topics, and this is not acceptable.'

'A school's philosophy, values and beliefs should be made very clear to families when enrolling their child in school.'

Differences between the public and private systems

'Schools all seem to communicate differently. But in general I appreciate emails, newsletters information evenings and most importantly direct teacher feedback. I had great experience with Distance Education (public) and the level of communication. Since moving to a normal public school I have been very disappointed with the level of communication. It is very hard to get information regarding your child/student. There seems to be a very "us-&-them" attitude. This was magnified during COVID were parents are locked out or isolated from most things school related. Making parents a part of their child's education only strengthens it. I would like to see parents directly encouraged to be involved in educating their child. Invitations to school. Updates on progress that aren't copy and paste from the school outcomes that parents don't understand anyway. Schools should look at the pre-school way of doing things more. They have much more interaction between home and school.'

'We have a child in the public system and the communication is pathetic unless you are in the P&C you only find out after the fact. By comparison our other children are in a private school and the curriculum is explained at the start of the year and text messages are always sent to both parents, this is a good system.'

Proposals for parent surveys and meet-the-teaching staff evenings

'A twice yearly survey could be sent to parents to gauge where parents are at with regards to a school curriculum and how well the school is operating, with an opportunity for feedback. The survey could be a standard state wide survey in which the survey results go directly to the schools, not directly processed by the Education Department.'

'There should be opportunities for regular meetings with parents and community groups to advise what is being taught to students, how it is being taught or brought to their attention, and to seek and accept comment and feedback from parents.'

'I think that schools should provide questionnaires and information sessions to parents of school age children detailing what the current syllabus is, and gaining constructive input from parents as to what changes need to be made to enable a workable platform on which to build into a workable model that reflects parental values rather than Government mandates.'

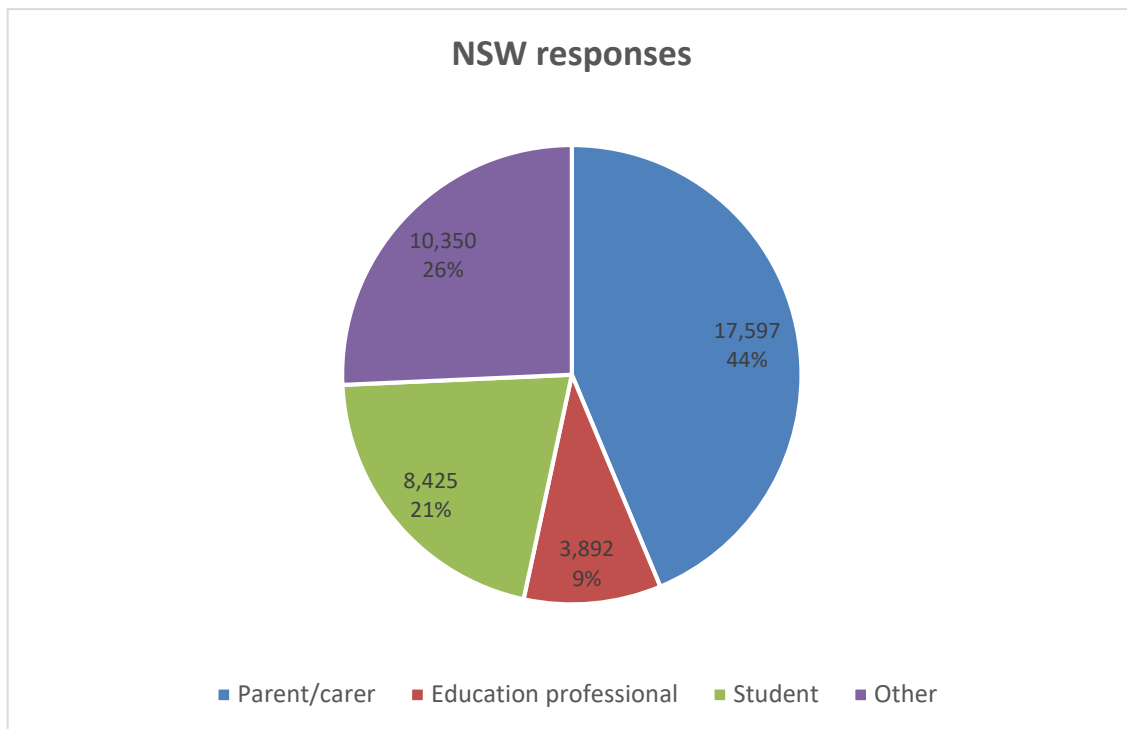
'Schools use newsletters and apps like School Box to communicate with parents. However, an evening of meet the Principal and other staff should be organised at the beginning of the year

where parents can ask questions freely. I don't believe parents should run the school however when it comes to teaching things that are outside of academics (like religion and some science topics), Parents have that role, choice and responsibility.'

'Schools should be having information nights regarding the educating of children on topics such as child safety, gender education etc.'

Question 10: In what capacity are you completing this questionnaire?

Question 10 was an optional question presented in a multiple choice format. Participants were able to choose from the following options: 'Parent/carer', 'Education professional', 'Student' and 'Other.'



List of questions asked

1. Please enter your contact details.
Name:
Email address:
Postcode:
2. What is your position on the Education Legislation Amendment (Parental Rights) Bill 2020?
Select one of these options:
 - a. support
 - b. support with amendments
 - c. oppose
 - d. neutral/undecided
3. Should schools be teaching gender as:
 - a. social construct (gender is fluid, and there is a difference between biological sex and human gender)
 - b. biological science (with very few exceptions people are born either male or female)
 - c. combination of both (a) and (b).
4. Do parents have enough say about what is taught in the classroom?
 - a. Yes
 - b. No
5. Should parents be provided with an extensive outline of the curriculum at the start of each school year?
 - a. Yes
 - b. No
6. Should parents have the right to take their children out of the classroom if what is being taught does not agree with their social and moral values?
 - a. Yes
 - b. No
7. On matters concerning a student's gender and sexuality, do you agree that parents are primarily responsible for the care and guidance of their children?
 - a. Yes
 - b. No
8. Do you have any other comments on the bill? (300 word text box)
9. Please provide any other feedback on how schools communicate information to parents and broader school communities? What works well and what improvements could be made, especially during the COVID pandemic. (300 word text box)
10. In what capacity are you completing this questionnaire:
 - a. Parent/carer
 - b. Education professional
 - c. Student
 - d. Other.

Appendix 2 Bulletin 55: Transgender students in schools

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

The Department of Education is committed to providing safe and supportive learning environments that respect and value diversity and are free from violence, discrimination, harassment and vilification. Research shows the supportive environment schools provide can have a lasting impact on both the educational and lifelong outcomes for students.

Most people express the gender that corresponds with their biological sex. There are some people whose gender identity or expression is different from that traditionally associated with assigned sex at birth. This is known as being transgender. This can occur at any age.

All students, including those who identify as transgender, have a right to be treated equitably and with dignity. The department has a number of resources that support these rights including the Student Welfare Policy and the Bullying: Preventing and Responding to Student Bullying in Schools Policy. These resources promote a proactive approach to the development of positive school environments in which every student is respected and valued. Additionally, schools have a legal duty to protect students from foreseeable risk of harm and to do what is reasonably practicable to ensure their safety.

The following information is general in nature. It is important, to structure any support specifically to the individual needs of the student within a particular school. Not all students who identify as transgender will require a plan to support them but it is necessary to assess the likelihood of any risk to each transgender student and where required plan for their support.

Legal rights for transgender students

A student who has identified as transgender enjoys the same legal rights or protections afforded to all students under the duty of care, education and work health and safety laws. Additional protections apply to such students under discrimination law. For example in NSW the Department of Education is prohibited from unlawfully discriminating against a student on transgender grounds:

- by refusing or failing to accept the person's application for admission as a student, or
- in the terms on which it is prepared to admit the person as a student.

The department is also prohibited from unlawfully discriminating against a student on transgender grounds:

- by denying the student access, or limiting the student's access, to any benefit provided by the educational authority, or
- by expelling the student or subjecting the student to any other detriment.

It does not follow that an application for enrolment from a transgender student can never be declined or that a transgender student can never be expelled. Rather, the law requires the student is not subjected to unlawful discrimination when such decisions are made. Further information about discrimination on transgender or gender identity grounds is found at Attachment A.

Privacy legislation and transgender students

Most, if not all, of the information collected about a transgender student will be personal or health information. This information is protected by privacy legislation.

While privacy legislation will not necessarily prevent school or other departmental staff from using or disclosing information for a lawful purpose (for example in the discharge of the duty of care or for child protection purposes), it is important wherever practicable to discuss how it is intended information will be used or disclosed with the student. This issue should also be discussed with the student's parent(s) or carer unless the principal believes on reasonable grounds that it is not in the student's best interests to do this (for example a court order has removed a parent's parental responsibility for that student).

School and other departmental staff should seek legal advice in circumstances where parents or carers and/or the student object to the proposed use or disclosure of a student's personal and/or health information.

Name and gender records

Generally, students are enrolled at school under the name and gender on their birth certificate. There are exceptions to this position, however, including where a student is transgender and seeks to change the way their first name is used and recorded by the school. Principals may wish to review Legal issues bulletin 20 for advice about the process to follow when this issue arises.

Students should then be referred to by the name they are enrolled under. The pronoun used to describe the student (he/she, him/her) should be consistent with the gender now recorded by the school. The department's Code of Conduct and the individual school's discipline and welfare policy should be utilised where staff or students deliberately or repeatedly use names or pronouns other than the one identified by the student concerned.

Uniform for transgender students

The department's School Uniform Policy encourages schools to consider individual student circumstances when considering the school's uniform. Many schools have developed unisex uniforms that are not gender specific.

Students who identify as transgender should be allowed to choose from the uniform options available at the school.

All students are required to wear items identified as necessary for particular activities, e.g. closed in shoes for practical food technology classes. A school uniform should meet requirements of work health and safety and anti-discrimination legislation.

Supporting a student who has identified as transgender

Support needs will vary from student to student. It is important to consult with the student and their parents or carers where practicable when planning for the student's support unless the principal believes on reasonable grounds that it is not in the student's best interests to do this (for example a court order has removed a parent's parental responsibility for that student).

Where reasonably practicable, the student should be treated on the same basis as other students of the same identified gender.

Consideration should be given to each activity the student is involved in at school. It is important to consider and as necessary plan ahead for any key transition points in the student's schooling.

Risks arising from these activities should be identified and assessed and strategies to eliminate or minimise the identified risks should be implemented so far as is reasonably practicable. Staff must be consulted where they are also potentially at risk. Activities to be considered may include:

- use of toilet and change room facilities

- excursions including overnight excursions
- school sport
- curriculum
- health care planning and
- gender transitioning while at school.

A sample plan for a high school student who has identified as transgender is found at Attachment B. This is a sample only – the strategies it contains will not apply in all circumstances. The actual strategies required to support a student will vary according to their individual circumstances and the school they attend.

Use of toilets and change room facilities

Toilets, showers and change rooms are specific to each school. An assessment of the risk posed to the student by using the toilets of their identified gender must be undertaken. If an identified risk to the student cannot be satisfactorily eliminated or minimised then other arrangements should be made. The need for the student to be safe is a paramount concern in these circumstances.

Students should not be required to use the toilets and change rooms used by persons of the sex they were assigned at birth if they identify as a different gender. Alternative arrangements may include using staff toilets or unisex toilets where possible. The exclusion of students who identify as transgender from the toilet or change rooms of their identified gender must be regularly reviewed to determine its continuing necessity.

If other students indicate discomfort with sharing single-sex facilities (toilets or change rooms for example) with a student who identifies as transgender, this should be addressed through the school learning and support team.

Excursion including overnight

An assessment of risk is normal procedure for all excursions. Ordinarily, a student who identifies as transgender should use the facilities of their identified gender or unisex facilities when available. In some circumstances, it may be appropriate to arrange private sleeping quarters.

School sport

A student who identifies as transgender should be permitted to participate in most school-based sports as their identified gender. Where the sport is competitive and the student is under 12 they should compete as their identified gender. Most students will be able to continue to participate in competitive sport in their identified gender after they have turned 12.

It may be lawful to exclude students aged 12 and over from competing in certain sports at the elite level in certain circumstances. Confidential case-by-case evaluation should occur. More information is available at:

https://www.ausport.gov.au/supporting/integrity_in_sport/resources/national_member_protection_policy_template External link

Curriculum

All teachers should be respectful and inclusive of all students' individual learning identity. Gender identity may be discussed in many curriculum areas including Personal Development, Health and Physical Education (PDHPE) classes following syllabus guidelines. Teachers should treat the topic in a manner

that is respectful, inclusive and positive. Information for PDHPE teachers can be found at the department's Curriculum Support Site.

Health care planning

Students undergoing a gender transitioning process will do so over time and in consultation with health care professionals. The process may or may not include medical treatment. The Student Health in NSW Public Schools policy should be applied by schools in relation to medication or any other health care needs the student may have.

Gender transitioning while at school

When a student advises of their intention to gender transition, schools need to provide a safe and supportive environment. It is often useful to set a date of gender transition for the student (in consultation with the student and their parent/carer) at the point of return from holidays. This allows an immediately visible change even though the personal process of change will occur over a longer period of time.

The school counsellor is likely to have an important role to play in supporting the student and their family. This could include liaising with the school and health professionals, especially in cases where the student may be experiencing difficulties in their personal relationships with family and friends. Staff may need additional professional development to enable them to successfully support the student.

The welfare and educational needs of the student are of primary importance and should be the focus of all actions taken by the school.

Communication strategies

Communication strategies should potentially be developed and implemented for:

- the school and the student and his or her parents or carers
- the student and his or her friendship group
- other students and school staff
- the broader school community; and (potentially) the media.

The student and their parents or carers

Ongoing, open and transparent communication between the school, and the student and their parents or carers is an essential part of providing the student with a safe and successful education unless the principal believes on reasonable grounds that it is not in the student's best interest to involve the parents or carers (for example a court order has removed a parent's parental responsibility for that student). A point of contact should be established within the school and the parents/carers and student encouraged to provide the school with relevant information. Parents and the student should be encouraged to promptly advise the school of any new or changed information, issues or incidents that occur at the school.

It is also important to encourage parents and the student to advise the school of any relevant incidents that occur outside of school. For example, it is important for the school to be advised if there has been an incident involving the student and other students on the weekend or a public holiday in order to review any plans for supporting the student at school.

The student and friendship groups

A student who identifies as transgender may need to discuss issues with the school counsellor (or staff member nominated by that student) such as informing friendship groups and other peers if they choose

to do so. Depending on the circumstances it may also be necessary to provide support to students in the friendship group.

Other students

Students may be curious or confused if one of their peers discloses that they identify as transgender. They should be reassured that the student deserves the same respect and courtesy that they would extend to any other person.

Other students may have questions about the student who has identified as transgender, particularly when the student has transitioned while they are at the same school. Staff should be provided with a suggested response to these questions. This response should promote acceptance but will vary according to the student's individual circumstances. The school counsellor and/or District Guidance Officer can assist in developing this response. Legal Services may be of assistance if legal issues arise.

Consideration should be given to how gender diversity is currently dealt with in the school and whether further action is necessary to reinforce the need for tolerance and respect for diversity.

Staff

It is important to identify the staff who need to have more detailed knowledge about the student in order to provide them with a safe and supportive learning environment. This is likely to include the principal, school counsellor and year advisor (where the student is in high school). Depending on the circumstances it may also include classroom teachers and other staff that need the information in order to safely provide the student with learning and support.

It is important to remind staff that a student who identifies as transgender has the same rights to learning in a safe and supportive environment as all other students and that additional support for the student may be necessary. It is also important to remind staff of their professional obligations in their dealings with all students and particularly with students who may be more vulnerable.

Staff may need additional professional development to support the student. Consideration should be given to what professional development staff may need while planning for the student's enrolment and/or transition. Assistance can be obtained from the Student Engagement and Interagency Partnership directorate in identifying possible sources of professional development.

The broader school community

On occasions, it is helpful if school staff are provided with a school-developed response to enquiries from the broader school community. The school should consult with the student who identifies as transgender and their parents to develop this response.

Media

The school should respond to any external enquiries about students who identify as transgender with respect for the student's privacy, as with enquiries about all students. Any media enquiries should be referred to the Media unit on (02) 9561 8501.

Support for the extended family of the student

Siblings and the student's extended family may find the student's transition challenging and be adversely affected by the impact of the student's transition on their family. Siblings and other family members can also experience bullying behaviour from peers and others as a consequence of the student's transition.

Strategies to address this should be implemented across the schools in which the student who has identified as transgender or their affected family members are known to have enrolled.

When a sibling, or a member of the student's extended family, attends a non-government school it may be helpful to work with that school to coordinate support for the student and their family. Consent should ordinarily be sought from the student's parents or carers or to allow this information exchange and coordination to occur.

Where this consent is not able to be obtained and information related to the safety, welfare or wellbeing of the student or his/her siblings or extended family is needed to help with decision making, planning, assessment or service provision then the Children and Young Persons (Care and Protection) Act 1998 can be used to seek and/or provide information and also to coordinate services. The school counsellor may be able to assist in this regard. See Legal issues bulletin 50 for more information about this process.

Reporting requirements

On rare occasions, a parent's or carer's response to a student identifying as being transgender could give rise to a reasonable suspicion that the student is at suspected risk of harm. This could relate to the parent's stated response to their child identifying as transgender but other risk factors may be present. School staff should inform their principal of any concerns about a student who may be at suspected risk of harm.

Principals need to consider whether a report to DCJ or contact with the department's Child Wellbeing unit or some other action is required. The Mandatory Reporter Guide can help with this decision. If in doubt or if assistance is required contact can be made with the department's Child Wellbeing unit. The department's Child protection policy: responding to and reporting students at risk of harm and guidelines also provides guidance about responding to child protection issues.

Enrolment in a single-sex school

If the student is seeking enrolment at a single-sex school, a decision about their eligibility to enrol should be made on the basis of his or her identified gender. If the student is already attending school advice should be sought from Legal Services.

Record keeping requirements

It is critically important to maintain appropriate official records when supporting a student who has identified as being transgender. These include records of:

- information provided by health care professionals or other professionals involved in providing support to the student
- meetings of the school learning and support team, copies of programs and where applicable units of work from year advisors or other staff used to raise awareness amongst students
- staff training and orientation (including briefing of casual staff)
- consultation with parents or carers, students, staff and others as appropriate during the development of learning and support plans for the student; and
- the development and implementation of plans to provide the student with learning and support (including any health care planning) and their later review. It is also important to keep a record of who has been provided with the current version of the plan.

Schools must observe any requirements imposed by privacy legislation with most records other than risk assessment and management strategies being kept secure and accessible only to those staff that need to see them. Staff should contact the Records Management Centre of Expertise (CoE) if they have specific records-related queries.

Assistance available to schools within the department

The Principal Education Officer, Learning and Engagement Coordinator can be contacted to provide advice. Legal Services can also be contacted for legal advice.

Resources available to support schools

- An Anti-Discrimination Board Factsheet, Transgender Discrimination
- A Gender Centre factsheet, Gender Variant Students: For teachers dealing with transgender students
- A department Student Engagement and Interagency Partnerships guide, Bias based bullying
- <https://gendercentre.org.au/resources/kits-fact-sheets/general>

Appendix 3 Submissions

No.	Author
1	Dr Luke Beck
2	Dr Bruce Baer Arnold
3	Intersex Human Rights Australia (IHRA)
4	Dr Kevin Donnelly AM
5	Professor Dianna Kenny
6	Centre for Emotional Health, Macquarie University
7	Mr Greg Horne
8	Parents for Transgender Youth Equity
9	FamilyVoice Australia
10	Name suppressed
11	Dr Elizabeth Coombs and Ms Colette Mahieu MA
12	Rainbow Families NSW
13	Yfoundations
14	ACON
15	The Law Society of New South Wales
16	Australian Christian Lobby
17	The Office of the Advocate for Children and Young People and The Office of the Children's Guardian
18	Australian Psychological Society
19	The Reisman Institute
20	Youth Action
21	Confidential
22	ReachOut Australia
23	Family Planning NSW
24	Independent Education Union of Australia NSW/ACT Branch
25	Pitt Street Uniting Church
26	ICLC, HALC, Community Legal Centres NSW, Community Legal Centres Australia
27	Anglican Church Diocese of Sydney
28	Australian Research Alliance for Children & Youth
29	Domestic Violence NSW
30	Australian Education Union New South Wales Teachers Federation Branch
31	NSW Gender Centre

No.	Author
32	Catholic Education Diocese of Parramatta
33	Anti-Discrimination NSW
34	Name suppressed
35	Human Rights Law Alliance
36	just.equal
37	Equality Tasmania
38	Federation of Parents and Citizens Associations of NSW
39	National Union of Students
40	Women's Safety NSW
41	Binary Australia
42	New South Wales Council for Civil Liberties (NSWCCL)
43	Australian Professional Association for Trans Health(AusPATH)
44	The Twenty-Ten Association
45	The Revd Dr Josephine Inkpin
46	Catholic Archdiocese of Sydney and the Maronite Eparchy of Australia
47	Equality Australia
48	Australian Federation of Islamic Councils Inc (AFIC)
49	Australian Lawyers for Human Rights
50	Women's Electoral Lobby (NSW)
51	Council of Catholic School Parents NSW/ACT
52	Uniting Network NSW and ACT
53	Social Justice in Early Childhood Foundation
54	LGBTIQ Health Australia
55	NSW Gay and Lesbian Rights Lobby
56	Ethics and Public Policy Center
57	Professor John Haldane
58	Public Health Association of Australia (PHAA)
59	Name suppressed
60	National Civic Council and Australian Family Association
61	Students' Representative Council of the University of Sydney
62	Council of Islamic Societies in NSW Incorporated
63	Amnesty International Australia
64	Public Service Association of New South Wales
65	Western Sydney Community Forum
66	Institute for Civil Society

No.	Author
67	Associate Professor Margaret Harper McCarthy
68	NSW Parents' Council
69	Freedom for Faith
70	Australian National Imams Council
71	Mr Grant Mistler
72	Cardinal Newman Catechist Consultants
73	Confidential
74	Associate Professors Tania Ferfolja and Jacqueline Ullman
75	Save Women's Sport Australasia
76	Ms Mara Kellow
77	Confidential
78	Catholic Schools NSW
79	Ms Maria Desiree Dicuanan
80	Family Watch International
81	Dr Michelle Dutton
82	Roman Catholic Diocese of Parramatta

Appendix 4 Witnesses at hearings

Date	Name	Position and Organisation
Tuesday 20 April 2021 Macquarie Room Parliament House, Sydney	Mr Greg Bondar	NSW & ACT Director FamilyVoice Australia
	Mr Andrew Wall	National Political Director Australian Christian Lobby
	Ms Nikki Aben	NSW Coordinator Australian Christian Lobby
	Mr Keysar Trad	Chief Executive Officer Australian Federation of Islamic Councils
	Ms Penny Dakin	CEO Australian Research Alliance for Children & Youth
	Dr Kristy Noble	Principal of Collaboration and Engagement Australian Research Alliance for Children & Youth
	Ms Jain Moralee	Co-Executive Director Twenty-Ten Association
	Mr Jack Whitney	Co-Convenor NSW Gay and Lesbian Rights Lobby
	Mr Patrick J Byrne, <i>via videoconference</i>	National President National Civic Council
	Mrs Terri Kelleher, <i>via videoconference</i>	A/National Vice President Australian Family Association
	Mr John Steenhof	Principal Lawyer Human Rights Law Alliance
	Mr Alex Millard	Solicitor Human Rights Law Alliance
	Mr Mark Sneddon, <i>via videoconference</i>	Executive Director Institute for Civil Society
	Mr Ashley de Silva	Chief Executive Officer ReachOut Australia
Mr Teddy Cook	Vice President Australian Professional Association for Trans Health	

Date	Name	Position and Organisation
	Mr Ghassan Kassisieh	Legal Director Equality Australia
	Ms Lannen Stapleton	Executive Director Parents for Transgender Youth Equity
	Ms Carlie Henderson	Member Parents for Transgender Youth Equity
	Ms Amy McGowan	Director of Advocacy for Rainbow Families Rainbow Families
Wednesday 21 April 2021 Macquarie Room Parliament House, Sydney	Professor John Haldane <i>via videoconference</i>	Individual
	Ms Mary Hasson JD <i>via videoconference</i>	Kate O'Beirne Fellow Ethics and Public Policy Centre
	Ms Kirralee Smith	National Spokeswoman Binary Australia
	Professor Damien Riggs <i>via teleconference</i>	Professor in Psychology Flinders University
	Associate Professor Tania Ferfolja	Primary Education, School of Education Western Sydney University
	Associate Professor Jacqueline Ullman	Adolescent Development Behaviour, Well-Being & Pedagogical Studies Western Sydney University
	Ms Renata Field	Policy and Research Manager Domestic Violence NSW
	Dr Kevin Donnelly AM	Individual
	Professor Dianna Kenny	Individual
	Ms Katherine Deves	Co-founder and Spokeswoman for Save Women's Sport Australasia
	Mr Dallas McInerney	Chief Executive Officer, Catholic Schools NSW
	Mr Peter Grace	Executive Director Council of Catholic Schools Parents NSW/ACT
Mr Mark Northam	Secretary Independent Education Union of Australia (NSW/ACT Branch)	

Date	Name	Position and Organisation
	Ms Amber Flohm	Senior Vice President New South Wales Teachers Federation
	Mr Kirk McKenzie	Member, Human Rights Committee Law Society of NSW
	Mr Jared Wilk	Co-Convenor of the NSWCCCL Human Rights and Civil Liberties Action Group NSW Council for Civil Liberties
	Dr Lesley Lynch	Convenor of the NSWCCCL Criminal Justice, Police Powers and Mental Health Action Group NSW Council for Civil Liberties
	Ms Georgia Burke	Co-Chair, LGBTI Subcommittee Australian Lawyers for Human Rights
	Ms Georgina Harrison	Group Deputy Secretary School Improvement and Education Reform Group NSW Department of Education
	Mr Paul Martin	CEO NSW Education Standards Authority
	Ms Zoe Robinson	NSW Advocate for Children and Young People
	Ms Janet Schorer PSM	The Office of the Children's Guardian

Appendix 5 Minutes

Minutes no. 29

Wednesday 28 October 2020

Portfolio Committee No. 3 – Education

Room 1043, Parliament House, Sydney, at 10.33 am

1. Members present

Mr Latham, *Chair*

Mr Mason-Cox, *Deputy Chair* (via videoconference)

Mr D'Adam

Mr Fang (via videoconference, until 11.50 am)

Mr Farlow (via videoconference)

Mrs Houssos

2. Apologies

Mr Shoebridge

3. Briefing on the draft Student Behaviour Strategy

The committee was briefed by the following representatives from the NSW Department of Education regarding the draft Student Behaviour Strategy:

- Ms Jane Simmons, A/Deputy Secretary, Learning Improvement
- Mr Ben Ballard, A/Executive Director, Learning and Wellbeing.

Mr Fang left the meeting.

4. Draft minutes

Resolved, on the motion of Mrs Houssos: That draft minutes nos 26, 27 and 28 be confirmed.

5. Correspondence

The committee noted the following items of correspondence:

Received:

- 9 September 2020 – Email from Mr Yonglin Chen to the secretariat, requesting that the committee accept a replacement submission
- 10 September 2020 – Letter from Mr Yonglin Chen to the chair, responding to the chair's letter seeking to ascertain the source of the disclosure of his submission to the *Daily Telegraph*
- 12 September 2020 – Letter from Mr Mark Tarrant to the committee, regarding potential misleading evidence given during a committee hearing
- 17 September 2020 – Email from Ms Karolina Nacovski, NSW Education Standards Authority, to the secretariat, providing answers to questions arising from the private briefing on 31 August 2020
- 14 October 2020 – Email from Lachlan Malloch on behalf of Commissioner Rose Webb, NSW Fair Trading, to the secretariat, seeking an extension of time to provide a submission to the inquiry into the future development of the NSW tertiary education sector.

Sent:

- 8 September 2020 – Letter from the chair to Mr Yonglin Chen, author of submission no. 39, seeking to ascertain the source of the disclosure of his submission to the *Daily Telegraph*
- 24 September 2020 – Letter from the chair to Ms Rose Webb, NSW Commissioner for Fair Trading, NSW Fair Trading, inviting the agency to make a submission to the Tertiary Education inquiry responding to the evidence from Associate Professor Berg

- 2 October 2020 – Email from the chair to Professor Geoff Masters, inviting him to provide a submission responding to the issues raised in the committee's discussion papers by 30 October 2020, as raised by the committee during his July briefing on his review of the NSW school curriculum
- 2 October 2020 – Email from the chair to submission authors to the Inquiry into the Review of the NSW School Curriculum, inviting them to provide a submission responding to the issues raised in the committee's discussion papers by 30 October 2020.

6. Inquiry into Tertiary Education

6.1 Submission no. 39 from Mr Yonglin Chen

Resolved, on the motion of Mr Mason-Cox: That the committee:

- take no further action in relation to the disclosure of submission no. 39
- not accept the replacement submission provided in the correspondence from Mr Yonglin Chen, received on 10 September 2020, that removes identifying information relating to third parties.

Resolved, on the motion of Mrs Houssos: That the committee keep the original submission no. 39 confidential.

6.2 Correspondence from Mr Mark Tarrant

Resolved, on the motion of Mrs Houssos: That the committee note Mr Tarrant's correspondence and keep it confidential.

6.3 Answers to questions on notice and supplementary questions

The committee noted that the following responses had been received and published on the committee's website as per the resolution appointing the committee:

- Australian Catholic University, received on 9 October 2020
- Country Universities Centre, received on 9 October 2020
- NSW Department of Education, received on 14 October 2020
- Dr Salvatore Babones, received on 18 September 2020
- Alphacrucis College, received on 8 October 2020
- University of New England, received on 9 October 2020
- University of Wollongong, received on 8 October 2020
- University of NSW, received on 9 October 2020
- University of Sydney, received on 12 October 2020
- University of Technology Sydney, received on 8 October 2020
- University of Western Sydney, received on 19 October 2020.

6.4 Submission from NSW Fair Trading

The committee noted that a submission was provided by NSW Fair Trading on 20 October 2020, and was published under a previous resolution.

7. Inquiry into the review of the New South Wales School Curriculum

7.1 Hearing on 30 November 2020

The committee noted the chair's proposed witness list with no further suggested nominations.

7.2 Witness invitations declined for the hearing on 4 November 2020

The committee noted that the following organisations had declined to appear at the hearing for the inquiry to be conducted on 4 November 2020:

- Federation of Parents and Citizens Associations of NSW
- Australian Education Union and NSW Teachers' Federation – Joint submission.

7.3 NESA briefing – responses to informal questions on notice

Resolved, on the motion of Mrs Houssos: That the committee publish the correspondence from NESA dated 17 September 2020.

7.4 Management of short individual 'pro forma' responses

Resolved, on the motion of Mr D'Adam: That the committee resolve to process all short, individual emails regarding Asian languages received to date as a single submission, to be published online with a generic and de-identified version including the number of those responses received.

7.4 Submissions

Resolved, on the motion of Mrs Houssos: That the committee resolve to:

- redact the highlighted sections of submissions 13, 38, 41, and 65
- publish the redacted versions of submissions 13, 38, 41, and 65
- keep confidential submissions 2, 18, 20, 23, 26, 66 and 68.

8. Inquiry into Education Legislation Amendment (Parental Rights) Bill 2020

8.1 Inquiry timeline

Resolved, on the motion of Mr Farlow: That:

- the committee accept submissions from nominated stakeholders and organisations/experts in the field who apply to make a submission
- submissions from nominated stakeholders be open from Monday 18 January 2021 to Sunday 28 February 2021
- the committee not issue an open call for submissions through the website
- a stakeholder list for submissions be circulated in November, with members having 48 hours to comment or nominate additional stakeholders
- hearings be held in late March 2021 after submissions have closed.

8.2 Online questionnaire

Resolved, on the motion of Mr Farlow: That the committee conduct an online questionnaire and that:

- the online questionnaire be open for the same period as submissions
- the committee not accept pro formas
- the wording for the website be as follows:

Before online questionnaire opens:

Submission process

- The committee has resolved to receive online submissions for this inquiry by conducting a questionnaire. This will be open from Monday 18 January 2021 to Sunday 28 February 2021. The committee will not be accepting submissions before this timeframe. A link to the questionnaire will be available on this webpage from 18 January.

While online questionnaire is open:

Online submissions

- Individuals are invited to submit their comments on the bill here [hyperlink to online questionnaire]. This is a new way for individuals to participate in inquiries in a timely and accessible way. The committee will not accept proformas.
- If you are an organisation or have specialist knowledge in the field and you would like to make a more detailed submission, please contact the secretariat before [submission closing date].
- the secretariat prepare a summary report of responses to the online questionnaire for publication on the website and use in the report, and that:
 - the committee agree to publish the report via email, unless a member raises any concerns
 - individual responses be kept confidential on tabling.

The committee deferred its consideration of the questions for the online questionnaire to the next meeting.

8.1 Advertising

The committee noted that the inquiry will be advertised via social media, stakeholder emails and a media release distributed to all media outlets in New South Wales.

9. Inquiry into the NSW tertiary education sector – Report deliberative date

The committee noted that the date for the inquiry's report deliberative has been deferred to Wednesday 25 November 2020.

10. Adjournment

The committee adjourned at 12.10 pm, until Wednesday 4 November 2020, 9.15 am, Macquarie Room, Parliament House (*public hearing – Inquiry into Review of the NSW School Curriculum*).

Shu-Fang Wei
Committee Clerk

Minutes no. 33

Tuesday 2 February 2021

Portfolio Committee No. 3 – Education

Room 1254, Parliament House, Sydney at 3.00 pm

1. Members present

Mr Latham, *Chair*

Mr Mason-Cox, *Deputy Chair* (via Webex)

Mr D'Adam

Mr Fang

Mr Farlow (via Webex)

Mrs Houssos (via Webex)

Mr Shoebridge (via Webex)

2. Previous minutes

Resolved, on the motion of Mr Fang: That draft minutes no. 32 be confirmed.

3. Inquiry into the Future of the NSW Tertiary Education Sector—Resolution for the tabling of the report

The committee noted that the following committee resolution was agreed to via email on 19 January 2021:

Mr Farlow moved: That the draft report, as amended, be the report of the committee and that the committee present the report to the House on 22 January 2021.

Question put.

The committee divided.

Ayes: Mr Fang, Mr Farlow, Mr Latham, Mr Mason-Cox.

Noes: Mr D'Adam, Mrs Houssos, Mr Shoebridge.

Question resolved in the affirmative.

4. Inquiry into Budget Estimates 2020-2021 – procedural resolutions

The committee noted the Budget Estimates timetable for 2020-2021 agreed to by the House, with hearings commencing at 9.30 am and concluding by 8.30 pm, for Portfolio Committee No. 3:

Date	Portfolio
Monday 1 March 2021	Tertiary Education and Skills (Lee)
Wednesday 3 March 2021	Education and Early Childhood Learning (Mitchell)

4.3 Allocation of question time and total hearing time

Resolved, on the motion of Mr Shoebridge: That with no Government questions being asked:

- the Tertiary Education and Skills portfolio be examined from 9.30 am to 12.30 pm and from 2.00 pm to 5.00 pm, with an additional 15 minutes reserved for Government questions.
- the Education and Early Childhood Learning portfolios be examined from 9.30 am to 12.30 pm and from 2.00 pm to 5.00 pm, with an additional 15 minutes reserved for Government questions.

4.4 Witness requests

Resolved, on the motion of Mr Shoebridge: That:

- the list of witnesses suggested by the Chair be circulated to the committee along with last year's hearing schedules, and
- the committee provide witness requests to the secretariat by 12 pm, Thursday 4 February 2021.

Resolved, on the motion of Mr Shoebridge: That the committee invite Mr Kevin Conolly MP, Parliamentary Secretary for Education to appear as a witness at the hearing.

4.5 Witness appearance time

Resolved, on the motion of Mr Fang: That:

- the Ministers appear from 9.30 am until 12.30 pm
- the Parliamentary Secretary appear from 9.30 am until 12.30 pm
- departmental staff appear from 9.30 am until 5.15 pm.

5. Inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020

Mr Shoebridge moved: That the online survey for the Inquiry into the Parental Rights Bill 2020 be withdrawn and any answers provided to date be archived and not otherwise used for the purposes of the inquiry.

Mr Mason-Cox moved: That the motion of Mr Shoebridge be amended by omitting all words and inserting instead: That the committee note Mr Shoebridge's concerns about the online questionnaire and re-consider this matter when the questionnaire closes.

Amendment of Mr Mason-Cox put.

The committee divided.

Ayes: Mr D'Adam, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham, Mr Mason-Cox.

Noes: Mr Shoebridge.

Question resolved in the affirmative.

Original question of Mr Shoebridge, as amended, put and passed.

6. Adjournment

The committee adjourned at 3.32 pm, until Monday 1 March 2021, Macquarie Room, Parliament House, (Tertiary Education and Skills hearing).

Emma Rogerson
Committee Clerk

Minutes no. 36

Monday 22 March 2021

Portfolio Committee No. 3 – Education

Room 1043, Parliament House, Sydney at 2.27 pm

1. Members present

Mr Latham, *Chair*

Mr Mason-Cox, *Deputy Chair*

Mr D'Adam (via Webex)

Mr Fang

Mr Farlow

Mrs Houssos

Mr Shoebridge

2. Correspondence

The committee noted the following items of correspondence:

Received:

- 2 February 2021 – Email from Ms Stephanie Kuczer, Research Proposal Coordinator, Australian Institute of Family Studies, to the secretariat, declining the committee's invitation to make a written submission to the inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020.
- 11 February 2021 – Email from Ms Stephanie Hart, Executive Assistant to Professor Geoff Masters, CEO, Australian Council for Education Research, to the secretariat, declining the committee's invitation to make a written submission to the inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020.
- 12 February 2021 – Email from the Mental Health Commission to the Chair, declining the committee's invitation to make a written submission to the inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020.
- 17 February 2021 – Email from Mr Michael Egan, President, Association of Catholic Schools Principals in NSW Inc, to the Chair, declining the committee's invitation to make a written submission to the inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020.
- 17 February 2021 – Email from Mr Adrian Murdoch of Minus18 to the secretariat, declining the committee's invitation to make a written submission to the inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020.
- 26 February 2021 – Email from Ms Kate O'Hara-Aarons of the Association of Independent Schools of NSW, to the secretariat, declining the committee's invitation to make a written submission to the inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020.
- 26 February 2021 – Email from the Australian Government Department of Education, Skills and Employment, to the secretariat, declining the committee's invitation to make a written submission to the inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020.

3. Inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020

3.1 Public submissions

Resolved, on the motion of Mr Fang: That the committee authorise the publication of submission nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 56, 57, 58, 61, 62, 63, 64, 65, 66, 67, 69, 70, 71, 74, 75 and 78.

3.2 Partially confidential submissions

Identifying and/or sensitive information

Resolved, on the motion of Mr Fang: That the committee authorise the publication of submission nos 41 and 55 with the exception of identifying and/or sensitive information which is to remain confidential, as per the recommendation of the secretariat.

Name suppressed

Resolved, on the motion of Mr Fang: That the committee keep the following information confidential, as per the request of the author: names in submission nos 10, 34 and 59.

Potential adverse mention

Resolved, on the motion of Mr Fang: That the committee authorise the publication of submission nos. 34 and 60 with the exception of potential adverse mention which is to remain confidential, as per the recommendation of the secretariat.

3.3 Confidential submissions

Resolved, on the motion of Mr Fang: That the committee keep submission nos 21, 68, 73 and 77 confidential, as per the request of the author, and that the secretariat ask the author of submission no. 68 to state reasons for requesting confidentiality.

3.4 Online questionnaire

The committee noted concerns raised by Mr Shoebridge about a potential unauthorised disclosure of the online questionnaire results to an inquiry stakeholder.

Mr Shoebridge moved:

- That the secretariat provide to the committee a report of the circumstances, dates and details of when the online questionnaire results (including interim results) were disclosed to committee members or inquiry stakeholders, and
- That the summary report for the online questionnaire not be actioned until the above-mentioned report is considered by the committee.

Question put.

The committee divided.

Ayes: Mr Shoebridge.

Noes: Mr D'Adam, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham, Mr Mason-Cox.

Question resolved in the negative.

Resolved, on the motion of Mr Fang: That the committee reiterate its resolution for the secretariat to prepare a summary report of responses to the questionnaire for publication on the committee's website and use in the report.

3.5 Proposed witnesses for hearings on 20 and 21 April 2021

Resolved, on the motion of Mr Farlow: That the committee agree to the proposed witness list, with members having until 4.00 pm on Monday 29 March 2021 to provide any further feedback or additional nominations to the secretariat.

4. Adjournment

The committee adjourned at 3.03 pm until 10.00 am, Tuesday 13 April 2021, Room 1043, Parliament House, (Curriculum Review report deliberative).

Anthony Hanna
Committee Clerk

Minutes no. 38

Tuesday 20 April 2021

Portfolio Committee No. 3 – Education

Macquarie Room, Parliament House, at 9.16 am

1. Members present

Mr Latham, *Chair*

Mr Mason-Cox, *Deputy Chair*

Mr D'Adam

Mr Fang (*from 9.23 am*)

Mr Farlow

Mrs Houssos

Mr Shoebridge

2. Previous minutes

Resolved, on the motion of Mr D'Adam: That draft minutes no. 37 be confirmed and published.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 12 April 2021 – Letter from the Deputy Government Whip, the Hon Sam Faraway MLC, to the secretariat advising that the Hon Taylor Martin MLC will substitute for the Hon Wes Fang MLC for the NSW Schools Curriculum Review report deliberative on 13 April 2021
- 13 April 2021 – Email from Dr Vinita Godinho, General Manager, Policy and Advocacy, Australian Psychological Society, to the secretariat declining the committee's invitation to give evidence at the Parental Rights Bill hearing on 20 April 2021
- 13 April 2021 – Email from Dr Adam Bourne, Associate Professor, Public Health, Australian Research Centre in Sex, Health and Society, to the secretariat declining the committee's invitation to give evidence at the Parental Rights Bill hearing on 21 April 2021
- 14 April 2021 – Email from Ms Lucy Watson, Acting Policy and Development Officer, AIDS Council of NSW, to the secretariat declining the committee's invitation to give evidence at the Parental Rights Bill hearing on 20 April 2021
- 14 April 2021 – Email from Ms Cristyn Davies, Research Fellow, Faculty of Health and Medicine, University of Sydney, to the secretariat declining the committee's invitation to give evidence at the Parental Rights Bill hearing on 21 April 2021
- 14 April 2021 – Email from Mr Rohan McHugh of Freedom for Faith Australia, to the secretariat declining the committee's invitation to give evidence at the Parental Rights Bill hearing on 20 April 2021
- 15 April 2021 – Email from Ramia Abdo Sultan, Solicitor and Community Relations Advisor, Australian National Imams Council, to the secretariat declining the committee's invitation to give evidence at the Parental Rights Bill hearing on 20 April 2021

- 16 April 2021 – Email from Patrick Doumani, Communications Officer, Federation of Parents and Citizens Associations of NSW, to the secretariat declining the committee's invitation to give evidence at the Parental Rights Bill hearing on 20 April 2021.

Sent:

- 22 March 2021 – Email from the secretariat to Ms Teresa Rucinski, Vice President, NSW Parents' Council, seeking further information on the NSW Parents' Council's request for confidentiality for its submission to the Parental Rights Bill inquiry.

4. Inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020

4.1 Allocation of questioning

Resolved, on the motion of Mr D'Adam: That the allocation of questioning be left in the hands of the Chair for the first two witness panels and that this decision be revisited during the morning tea break if required.

5. Inquiry into the review of the New South Wales school curriculum

5.1 Unauthorised disclosure

Mr Shoebridge raised concerns about the unauthorised disclosure of the committee's report entitled *Review of the NSW School Curriculum* prior to its tabling.

Mr Shoebridge moved: That the committee notes with concern repeated breaches of confidentiality from this committee, the most recent being the publication of the confidential Curriculum Review report in the *Sydney Morning Herald* including detailed comments from the Chair, and that the Chair accept he breached the confidentiality of the report by providing it to the media for publication.

The committee deferred consideration of this matter to a later hour.

6. Inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020

6.1 Public hearing

Witnesses, members of the public and media were admitted.

The Chair began to make an opening statement regarding the broadcasting of proceedings, adverse mention and other matters.

Disorder in the public gallery.

Mrs Houssos, Mr Latham (Chair), Mr Mason-Cox (Deputy Chair) and Mr Shoebridge left the meeting.

In the absence of the Chair and Deputy Chair, the committee adjourned at 9.39 am.

Mrs Houssos, Mr Latham, Mr Mason-Cox and Mr Shoebridge joined the meeting.

The committee resumed the meeting in public at 9.47 am.

The Chair concluded the opening statement regarding the broadcasting of proceedings, adverse mention and other matters.

The following witnesses were sworn and examined:

- Mr Greg Bondar, NSW & ACT State Director, FamilyVoice Australia
- Mr Andrew Wall, National Political Director, Australian Christian Lobby
- Ms Nikki Aben, NSW Coordinator, Australian Christian Lobby.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Keysar Trad, Chief Executive Officer, Australian Federation of Islamic Councils.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Penny Dakin, CEO, Australian Research Alliance for Children & Youth
- Dr Kristy Noble, Principal of Collaboration and Engagement, Australian Research Alliance for Children & Youth
- Ms Jain Moralee, Co-Executive Director, Twenty-Ten Association
- Mr Jack Whitney, Co-Convenor, NSW Gay and Lesbian Rights Lobby.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Patrick J Byrne, National President, National Civic Council (*via video link*)
- Mrs Terri Kelleher, A/National Vice President, Australian Family Association (*via video link*)
- Mr John Steenhof, Principal Lawyer, Human Rights Law Alliance
- Mr Alex Millard, Solicitor, Human Rights Law Alliance
- Mr Mark Sneddon, Executive Director, Institute for Civil Society (*via video link*)

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Ashley de Silva, Chief Executive Officer, ReachOut Australia
- Mr Teddy Cook, Vice President, Australian Professional Association for Trans Health.

The evidence concluded and the witnesses withdrew.

Resolved, on the motion of Mr Shoebridge: That the footage from the committee's hearing, including the demonstration in the morning, be released to media outlets who requested it.

Resolved, on the motion of Mrs Houssos: That photographs of the witnesses appearing at 11.30 am be provided to the witnesses, at their request.

The following witnesses were sworn and examined:

- Mr Ghassan Kassisieh, Legal Director, Equality Australia
- Ms Lannen Stapleton, Executive Director, Parents of Transgender Youth Equity
- Ms Carlie Henderson, Member, Parents of Transgender Youth Equity
- Ms Amy McGowan, Director of Advocacy for Rainbow Families, Rainbow Families.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 4.48 pm.

6.2 Election of Deputy Chair for the hearing on 21 April 2021

Resolved, on the motion of Mr Farlow: That Mr Fang be elected Acting Deputy Chair for the hearing on 21 April 2021 from 9.00 am onwards.

7. Adjournment

The committee adjourned at 4.50 pm, until 8.15 am, Wednesday 21 April 2021, Macquarie Room, Parliament House (Parental Rights Bill hearing).

Anthony Hanna
Committee Clerk

Minutes no. 39

Wednesday 21 April 2021

Portfolio Committee No. 3 – Education

Macquarie Room, Parliament House, at 8.14 am

1. Members present

Mr Latham, *Chair*

Mr Mason-Cox, *Deputy Chair* (until 8.53 am)

Mr D'Adam

Mr Fang (*Acting Deputy Chair* from 9.00 am)

Mr Farlow (until 1.28 pm; and from 3.15 pm)

Mrs Houssos

Mr Shoebridge (from 9.32 am)

2. Apologies

Mr Mason-Cox, from 9.00 am.

3. Inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020**3.1 Public hearing**

Witnesses, members of the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings, adverse mention and other matters.

The following witnesses were sworn and examined:

- Professor John Haldane, individual, *via video link*
- Ms Mary Hasson JD, Kate O'Beirne Fellow, Ethics and Public Policy Centre, *via video link*
- Ms Kirralee Smith, National Spokeswoman, Binary Australia.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Professor Damien Riggs, ARC Future Fellowship, College of Education, Psychology and Social Work Flinders University, *via teleconference*
- Dr Tania Ferfolja, Associate Professor, Primary Education, School of Education, Western Sydney University
- Dr Jacqueline Ullman, Associate Professor, Adolescent Development, Behaviour, Well-Being & Pedagogical Studies, Western Sydney University
- Ms Renata Field, Policy and Research Manager, Domestic Violence NSW.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Dr Kevin Donnelly AM, individual
- Professor Dianna Kenny, individual
- Ms Katherine Deves, Co-founder and Spokeswoman for Save Women's Sport Australasia.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Dallas McInerney, CEO, Catholic Schools NSW
- Mr Peter Grace, Executive Director, Council of Catholic Schools Parents NSW/ACT.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Mark Northam, Secretary, NSW/ACT Branch Independent Education Union
- Ms Amber Flohm, Senior Vice President, New South Wales Teachers Federation.

Mr Northam tendered a media release by the Association of Independent Schools of NSW Limited, entitled 'Best paths identified to school wellbeing and academic outcomes', dated 21 April 2021.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Kirk McKenzie, Member, Human Rights Committee, Law Society of NSW
- Mr Jared Wilk, Co-Convenor of the NSW CCL Human Rights and Civil Liberties Action Group, NSW Council for Civil Liberties
- Dr Lesley Lynch, Convenor of the NSWCCCL Criminal Justice, Police Powers and Mental Health Action Group, NSW Council for Civil Liberties
- Ms Georgia Burke, Co-Chair, LGBTI Subcommittee, Australian Lawyers for Human Rights.

Ms Burke tendered a report of the United Nations General Assembly entitled 'Report of the United Nations Special Rapporteur on the right to education', dated 23 July 2010.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Georgina Harrison, Group Deputy Secretary, School Improvement and Education Reform Group, NSW Department of Education
- Mr Paul Martin, CEO, NSW Education Standards Authority
- Ms Zoe Robinson, NSW Advocate for Children and Young People
- Ms Janet Schorer PSM, The Office of the Children's Guardian.

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 4.38 pm.

3.2 Requests for photographs and videos of the proceeding

Resolved, on the motion of Mrs Houssos: That the committee authorise the release of relevant photographs and footage excerpts to the following witnesses:

- Mr Teddy Cook of the Australian Professional Association for Trans Health
- Mr Keysar Trad of the Australian Federation of Islamic Councils
- Mr Patrick Byrne of the National Civic Council.

3.3 Tabled documents

Resolved, on the motion of Mr Shoebridge: That the committee accept and publish the following documents tendered during the hearing on 21 April 2021:

- the media release entitled 'Best paths identified to school wellbeing and academic outcomes', tendered by Mr Northam
- a report of the United Nations General Assembly entitled 'Report of the United Nations Special Rapporteur on the right to education', dated 23 July 2010, tendered by Ms Burke.

3.4 Report deliberative date

Resolved, on the motion of Mr Shoebridge: That consideration of the report deliberate date be deferred, and that the Chair is to consult with members to canvass potential dates.

4. Inquiry into the review of the New South Wales school curriculum

4.1 Unauthorised disclosure

The committee resumed consideration of the matter raised by Mr Shoebridge on 20 April 2021.

Mr Shoebridge had moved: That the committee notes with concern repeated breaches of confidentiality from this committee, the most recent being the publication of the confidential Curriculum Review report in the *Sydney Morning Herald* including detailed comments from the Chair, and that the Chair accept he breached the confidentiality of the report by providing it to the media for publication.

Mrs Houssos moved that the motion of Mr Shoebridge be amended by omitting all words and inserting instead:

1. That the committee note that the Chair provided a version of the Curriculum Review report to the *Sydney Morning Herald* prior to the tabling of the report, as he had done previously with the Tertiary Education report.
2. That, before doing this in the future, the Chair must seek the approval of the committee.

Amendment of Mrs Houssos put.

The committee divided.

Ayes: Mr D'Adam, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham

Noes: Mr Shoebridge.

Question resolved in the affirmative.

Original question of Mr Shoebridge, as amended, put and passed.

5. Adjournment

The committee adjourned at 4.42 pm, *sine die*.

Anthony Hanna
Committee Clerk

Minutes no. 40

Thursday 6 May 2021

Portfolio Committee No. 3 - Education

Members' Lounge, Parliament House, 2.01 pm

1. Members present

Mr Latham, *Chair*

Mr D'Adam

Mr Fang (from 2.02 pm)

Mr Farlow

Mrs Houssos

Mr Shoebridge (from 2.02 pm)

2. Apologies

Mr Mason-Cox

3. Inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020

3.1 Correspondence

The committee noted the following items of correspondence:

Received

- 20 April 2021 – From Dr Kristy Noble, Principal of Collaboration and Engagement, Australian Research Alliance for Children & Youth, to the secretariat, providing a paper detailing the distinction between gender and sex, and the treatment approach of gender-affirming care
- 23 April 2021 – Letter from Ms Zoë Robinson, the Advocate for Children and Young People, to the committee, clarifying the consultation process used to seek the views of young people on the Parental Rights Bill and offering an opportunity to discuss options for further consultation if required.

4. Inquiry into the Review of the NSW School Curriculum**4.1 Correspondence**

The committee noted the following items of correspondence:

Received

- 22 April 2021 – Email from individual to the committee about text book use and the decline in student performance in mathematics.

5. Inquiry into Budget Estimates 2020-2021**5.1 Correspondence**

The committee noted the following items of correspondence:

Received

- 29 March 2021 – Ms Amelia Eames, Office of Minister Lee to secretariat, providing further requested information to answers to questions on notice from the Skills and Tertiary Education hearing held 1 March 2021.

Sent

- 4 March 2021 - Email from the secretariat to Hon Dr Geoff Lee MP, Minister for Skills and Tertiary Education, attaching transcript of evidence with questions on notice highlighted and supplementary questions
- 8 March 2021 - Email from the secretariat to Hon Sarah Mitchell MLC, Minister for Education and Early Childhood Learning, attaching transcript of evidence with questions on notice highlighted and supplementary questions
- 29 March 2021 – Email from the secretariat to Ms Amelia Eames, Office of Minister Lee, requesting the provision of further information to answers to questions on notice from the Skills and Tertiary Education hearing held 1 March 2021.

5.2 Answers to questions on notice and supplementary questions

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution establishing the Inquiry:

- answers to questions on notice and supplementary questions from Hon Dr Geoff Lee MP, Minister for Skills and Tertiary Education, received 25 March 2021
- answers to questions on notice and supplementary questions from the Hon Sarah Mitchell MLC, Minister for Education and Early Childhood Learning, received 29 March 2021.

5.3 Consideration of Chair's draft report

The Chair submitted his draft report entitled *Budget Estimates 2020-2021*, which, having been previously circulated, as taken as being read.

Resolved, on the motion of Mr Fang: That:

- a) The draft report be the report of the committee and that the committee present the report to the House;

- b) The transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;
- c) Upon tabling, all unpublished transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- d) The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- e) That the report be tabled on Tuesday 11 May 2021.

6. Adjournment

The committee adjourned at 2.04 pm, *Sine die*.

Emma Rogerson
Committee Clerk

Minutes no. 42

Thursday 29 July 2021

Portfolio Committee No. 3 – Education

Via WebEx at 10.03 am

1. Members present (*all via WebEx*)

Mr Latham, *Chair*

Ms Cusack

Mr D'Adam

Mr Farlow

Mr Farraway (*substituting for Mr Fang*)

Mrs Houssos

Mr Shoebridge

2. Previous minutes

The committee considered draft minutes no. 38. Debate ensued.

Mr D'Adam moved: That the suggested resolution to confirm draft minutes no. 38 be amended by inserting the following:

'This committee notes the email received by the committee from Patrick Doumani from the Federation of Parents and Citizens Associations. The committee notes that the Federation of Parents and Citizens Associations did not decline to give evidence but indicated that its representatives were unavailable on the date specified. The committee expresses its concern that in an inquiry into a bill on the issue of parents rights the statutory body established to represent parents in government schools has not been afforded an adequate opportunity to be heard and its views are not reflected in the draft report presented by the chair for the committee's consideration.'

Mr Farlow moved: that the motion of Mr D'Adam be amended by omitting all words after 'This committee notes the email received by the committee from Patrick Doumani from the Federation of Parents and Citizens Associations' and inserting instead the following:

The response received from the Federation of Parents and Citizens Associations by the secretariat is as follows:

Good Morning,

I have tried to get witnesses for this hearing, but unfortunately all our representatives have other commitments on that day that they cannot avoid. So we will have to decline this invitation in this instance.

Patrick Doumani
Communications Officer
Federation of Parents and Citizens Associations of NSW

Amendment of Mr Farlow put and passed.

Question of Mr D'Adam, as amended, put and passed as follows:

This committee notes the email received by the committee from Patrick Doumani from the Federation of Parents and Citizens Associations. The response received from the Federation of Parents and Citizens Associations by the secretariat is as follows:

Good Morning,

I have tried to get witnesses for this hearing, but unfortunately all our representatives have other commitments on that day that they cannot avoid. So we will have to decline this invitation in this instance.

Patrick Doumani
Communications Officer
Federation of Parents and Citizens Associations of NSW

Consideration of draft minutes no. 39 was deferred to a future meeting.

3. Correspondence

The committee noted the following items of correspondence:

Received

- 23 April 2021 – Letter from Ms Zoe Robinson, Advocate for Children and Young People, to the committee providing further context to the Advocate's consultations on the Education Legislation Amendment (Parental Rights) Bill 2020.
- 5 May 2021 – Email from Mr Joseph Younes, Head of Communication Services, Roman Catholic Diocese of Parramatta, to the secretariat providing an updated submission to replace submission 32.
- 11 May 2021 – Email from private citizen to the committee expressing thanks for the committee's report on the *Review of the NSW School Curriculum* of March 2021.
- 1 June 2021 – Letter from Ms Joy Burch, Speaker of the ACT Legislative Assembly, to the chair outlining the Assembly's 12 May resolution on the education of transgender and gender diverse students.
- 23 July 2021 – Letter from the Hon Shayne Mallard MLC, Government Whip in the Legislative Council, to the secretariat advising that the Hon Sam Farraway MLC will substitute for the Hon Wes Fang MLC for the Parental Rights Bill report deliberative on Thursday 29 July 2021.

Resolved, on the motion of Mr Farlow: That the committee authorise the publication of correspondence from Ms Zoe Robinson, Advocate for Children and Young People, dated 23 April 2021, providing further context to the Advocate's consultations on the Education Legislation Amendment (Parental Rights) Bill 2020.

4. Inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020

4.1 Recording of report deliberative

Resolved, on the motion of Mrs Houssos: That the committee's deliberation on the Chair's draft report, entitled 'Education Legislation Amendment (Parental Rights) Bill 2020', be recorded in order to assist the secretariat.

4.2 Answers to question on notice and supplementary

The committee noted that the following answers to questions on notice and supplementary questions were published by the committee clerk under the authorisation of the resolution appointing the committee:

- Mr Greg Bondar of FamilyVoice Australia, received on 18 May 2021
- Dr Kristy Noble of the Australian Research Alliance for Children & Youth, received on 20 May 2021
- Ms Lannen Stapleton of Parents for Transgender Youth Equity, received on 18 May 2021
- Ms Amy McGowan of Rainbow Families, received on 19 May 2021
- Mrs Terri Kelleher of the Australian Family Association, received on 3 May 2021
- Mr Andrew Wall of the Australian Christian Lobby, received on 20 May 2021
- Mr Peter Grace of the Council of Catholic Schools Parents, received on 19 May 2021
- The Advocate for Children and Young People, received on 19 May 2021
- The Office of the Children's Guardian, received on 19 May 2021
- The NSW Teachers Federation, received on 19 May 2021
- Ms Georgina Harrisson, A/Secretary of the Department of Education, received on 19 May 2021
- Mr Paul Martin, Chief Executive of NESA, received on 18 May 2021
- Ms Katherine Deves of Save Womens Sport Australasia, received on 18 May 2021
- Mr Kirk McKenzie of the Law Society of NSW, received on 19 May 2021
- Prof Dianna Kenny, received on 3 May 2021
- A/Prof Ullman and A/Prof Ferfolja, received on 18 May 2021
- Ms Kirralee Smith of Binary Australia, received on 13 May 2021.

4.3 Public submission

The committee noted that the following submission was published by the committee clerk under the authorisation of the resolution appointing the committee: submission no. 82 (Roman Catholic Diocese of Parramatta).

4.4 Consideration of Chair's draft report

The Chair submitted his Chair's draft report, entitled 'Education Legislation Amendment (Parental Rights) Bill 2020' which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Farlow: That the committee defer consideration of the Chair's draft report to enable members to identify to the secretariat elements of evidence to be included in the report and that all proposed amendments are to be considered together at a future meeting. The committee is to reconvene on a date to be determined by the Chair in consultation with committee members.

5. Adjournment

The committee adjourned at 10.53 am, *sine die*.

Anthony Hanna
Committee Clerk

Draft minutes no. 45

Tuesday 31 August 2021

Portfolio Committee No. 3 – Education

Via WebEx at 10.03 am

1. Members present (*all via WebEx*)Mr Latham, *Chair*Mr Fang, *Deputy Chair*Ms Cusack (*until 1.21 pm*)

Mr D'Adam

Mr Farlow

Mrs Houssos

Mr Shoebridge

2. Previous minutes

Resolved, on the motion of Mr Farlow: That draft minutes nos. 39 and 42 be confirmed.

3. Inquiry into the Education Legislation Amendment (Parental Rights) Bill 2020**3.1 Recording of report deliberative**Resolved, on the motion of Mr Fang: That the committee's deliberation on the Chair's revised draft report, entitled *Education Legislation Amendment (Parental Rights) Bill 2020*, be recorded in order to assist the secretariat.**3.2 Further consideration of Chair's draft report**The Chair submitted a revised version of the Chair's draft report, entitled *Education Legislation Amendment (Parental Rights) Bill 2020* which, having been previously circulated, was taken as being read.

Mr Shoebridge moved: That the secretariat be requested to provide a revised draft report that provides details of the evidence that fairly reflects the balance of the submissions that opposed the Bill and which articulated in detail the reasons why it should not be supported. That this revised draft must include details of the evidence of Teddy Cook, the only openly transgender witness that appeared before the committee, and who gave his evidence with honesty, strength and intelligence together with the considered views of the appropriately qualified medical specialists who provided submissions in opposition to the Bill including the Australian Psychological Society.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That the following new paragraphs be inserted on page xiii after 'Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice':

'A number of concerns were raised with the conduct of the inquiry including concerns raised by the Law Society of NSW about limitations on who was invited to make a submission and poor survey design that was considered likely to significantly prejudice the results [FOOTNOTE: Submission 15, The Law Society of New South Wales, p 6]. The preliminary results of the survey were leaked to the media before they were officially publicly available raising concerns about the unreasonable politicisation of the inquiry.

Insert new inset box:

CASE STUDY

There was also a substantial irregularity with the publication of a submission from the Catholic Diocese of Parramatta (submission 32) which was later replaced by another, contradictory submission (submission 82). The initial submission strongly opposed the bill - calling it an 'unacceptable incursion into the professional judgement of Catholic schools and school systems' [FOOTNOTE: Submission 32, Catholic Education Diocese of Parramatta, p 1]. The submission also argued that 'it should never be the case that children's rights become subservient to an overarching concept of 'parental primacy' [FOOTNOTE: Submission 32, Catholic Education Diocese of Parramatta, p 3]. Furthermore the submission contended that existing choice of school in NSW made the bill redundant[1]. It also argued that the proposal was 'short sighted and lacking insight into a school's duty of care and student needs' [FOOTNOTE: Submission 32, Catholic Education Diocese of Parramatta, p 7].

The initial submission saw diversity as an opportunity within Catholic Schools for meaningful dialogue and discussion which would be diminished by the bill [FOOTNOTE: Submission 32, Catholic Education Diocese of Parramatta, p 8]. It also argued that the conception of parental primacy advanced in the bill put teachers in an impossible position that would have a direct negative impact on education [FOOTNOTE: Submission 32, Catholic Education Diocese of Parramatta, p 9]. Finally it found that 'the Bill demonstrates a complete lack of understanding of what teaching and learning entails' [FOOTNOTE: Submission 32, Catholic Education Diocese of Parramatta, p 10].

The revised submission opposed the bill and was accompanied by a pastoral letter that read as follows: <https://parracatholic.org/pastoral-letter-to-the-people-of-parramatta-on-the-parental-rights-bill/>

[1] 'Parents in NSW already have the liberty to send their children to a range of schools that accord with their moral and religious convictions. This is exactly what parents of over 43,000 students in CEDP Catholic schools are doing. Additional legislative provisions advocating for this liberty are redundant and divisive,' [FOOTNOTE: Submission 32, Catholic Education Diocese of Parramatta, p 4].'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That the following new paragraph be inserted on page 1 after 'These examples are considered within the broader context of changing levels of parental involvement in schools over time':

'The focus in this section is on the submissions and evidence heard which supports the Hon Mark Latham's Bill - it is worth noting that a large body of the submissions and witnesses from credible organisations and with lived experience in education and as transgender people strongly opposed the bill.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That the following new paragraphs be inserted after paragraph 1.16:

'Drafting and legal errors with the proposed bill

A large number of fundamental inconsistencies in the bill were identified as were a number of drafting errors that made the final proposal ultimately unworkable. A substantial tension was identified by ReachOut who pointed out that: 'It is fundamentally inconsistent to state that teaching should be non-

ideological but then state it should not be inconsistent with the values of parents' [FOOTNOTE: Submission 22, ReachOut, p 10].

It was also unclear how the objection processes would work in practice with the bill providing no guidance on this: 'That is the central problem with this bill: It raises a right for objection with absolutely no mechanism to resolve the conflict that arises between and among even parents of the same child' [FOOTNOTE: Evidence, Mr Ghassan Kassisieh, Legal Director, Equality Australia, 20 April 2021, p 59]. For example the Law Society of NSW raised the prospect of a situation where a child's parents disagree on the child being instructed about a matter of 'parental primacy' - this would place the school in the impossible position that it would be breaching the requirements of the bill no matter what actions it took [FOOTNOTE: Evidence, Mr Kirk McKenzie, Member, Human Rights Committee, Law Society of New South Wales, 21 April 2021]

The problems with the bill were seen as so unsurmountable that amendments could not reasonably be made [FOOTNOTE: Submission 25, Pitt Street Uniting Church].

The Public Health Association of Australia raised concerns that the bill misused medical terminology in ways that were confusing and damaging [FOOTNOTE: Submission 58, Public Health Association of Australia, p 2].

The definition of gender fluidity in the bill was a particular source of concern and confusion – Anti Discrimination NSW pointed out of the definition included in the bill: 'Not only is this definition inconsistent with recognised transgender status in the ADA, ADNSW also has some difficulty with this definition in terms of clarity and content. There is further difficulty with the expression 'disorders of sexual differentiation' in the definition. This expression is not necessarily commonly used, and further, ADNSW notes that the terminology used to describe people born with variations in sex characteristics is contested' [FOOTNOTE: Submission 33, Anti discrimination NSW, p 2].

How the bill related to intersex people was also found to be unclear by Intersex Human Rights Australia [FOOTNOTE: Submission 3, Intersex Human Rights Australia (IHRA)]. Their concerns were shared by LGBTIQ Health Australia who pointed out that 'Describing intersex variations as 'disordered', reinforcing harmful stereotypes that variations of sex characteristics need to be 'corrected', which will increase the stigmatisation of intersex children. This will potentially lead to further medical and surgical interventions being conducted without their fully informed and freely given consent, which is a violation of their rights to bodily autonomy, physical integrity and self-determination' [FOOTNOTE: Submission 54, LGBTIQ Health Australia, p 2].'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraphs 1.19 to 1.31 be omitted and the following new paragraph be inserted instead:

"The arguments in favour of the bill were put forward by the Hon Mark Latham MLC in his second reading speech.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraph 1.32 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraph 1.33 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraph 1.33 be amended by omitting 'submitted' and inserting instead 'asserted without any supporting evidence'.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraph 1.34 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That the following new paragraph be inserted after paragraph 1.33:

'Proponents of the bill including The Reisman Institute (submission 19) attempt to link transgender people and their supporters with paedophilia in support of the bill – this illustrates some of the deep prejudice and transphobia that this Bill risks giving succour to.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraphs 1.35 to 1.38 and the breakout box after paragraph 1.38 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Resolved, on the motion of Mr D'Adam: That paragraph 1.39 be omitted as follows: 'More recently, it was reported that a student support officer at the Denison College of Secondary Education in Bathurst sent out 'gender fluidity guides and Safe Schools material' to 150 high school teachers, apparently including recommendations to avoid the use of the words 'husband and wife.' The document – entitled *The LGBTQ Inclusive Language Guide* – reportedly also promotes the use of gender neutral toilets and change rooms. The incident at Denison College was recently highlighted in question time in the Legislative Council, being the subject of a question to Minister Mitchell alleging that the material in question included Safe Schools material written by Ms Roz Ward.'

Mr D'Adam moved: That paragraph 1.40 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraph 1.41 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraphs 1.42 and 1.43 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Resolved, on the motion of Mrs Houssos: That paragraph 1.44 be omitted as follows: 'Mr Trad spoke of an erosion of trust in teachers. He referred to anecdotal evidence he has personally received from teachers indicating that year after year, the trust that parents have in teachers is diminishing such that '[p]arents now tend to listen more to the concerns of their child and will believe their child even if the child is not being truthful.'

Mr D'Adam moved: That paragraph 1.45 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraphs 1.46 and 1.47 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Resolved, on the motion of Mr Shoebridge: That the following new paragraphs be inserted, with their placement to be determined by the secretariat:

"Tania Ferfolja the Associate Professor, Primary Education, School of Education, Western Sydney University gave evidence about current research being undertaken at WSU which shows that 'only 3.4 per cent of New South Wales parents would like to see the removal of relationships and sexual health education from the curriculum—and this is where most of the gender and sexuality diversity curriculum sits. Eighty-six per cent of New South Wales parents would like to see their children understand gender diversity across the primary and secondary schooling years.' [FOOTNOTE: Evidence, A/Prof Tania Ferfolja, Associate Professor, Primary Education, School of Education, Western Sydney University, 21 April 2021, p 11.]

This accords with the submissions from the Federation of Parents and Citizens Associations of NSW and the NSW Parents Council which both oppose the bill. The Parents and Citizens Association raise concerns that the 'uncertainty this would create within education could potentially be catastrophic to the delivery of a uniform curriculum, and place schools and teachers in untenable positions.' [FOOTNOTE: Submission 38, Federation of Parents and Citizens Associations of NSW, p 2] likewise the Parents Council argues that the bill does not reflect the ideals of current society [FOOTNOTE: Submission 68, NSW Parents council submission 68, p 2].

The existing system appears to deal appropriately with complaints that are raised, and the very small number of these that are escalated in relation to LGBTI issues provides some evidence that this is not a looming problem for most parents in most schools - from a cohort of 800,000 students and their families around 10 complaints over a three year period were escalated to the department [FOOTNOTE: Evidence, Ms Georgina Harrison, Group Deputy Secretary, School Improvement and Education Reform Group, NSW Department of Education, 21 April 2021, p 75]. Given the significant media attention on these issues it is not considered likely that there are even more substantial claims that aren't being made because of a lack of awareness of the complaints procedure.

Evidence from the young people consulted on the bill by the NSW Advocate for Children and Young People also overwhelmingly opposed the bill [FOOTNOTE: Evidence, Ms Zoe Robinson, NSW Advocate for Children and Young People, 21 April 2021, p 68]. The voices and views of young people must be included in any review of the education system.'

Mr D'Adam moved: That the heading before paragraph 1.48 'Unauthorised teaching of Safe Schools and gender fluidity – the unwritten curriculum' be amended by omitting all words and inserting instead 'Safe Schools Program'.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraph 1.49 be amended by omitting 'amid growing public concern about various elements of the Safe Schools program including its potential misuse for political ends' before 'the then Federal Minister for Education and Training.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Resolved, on the motion of Mr D'Adam: That paragraph 1.53 be omitted as follows: 'Throughout the inquiry, the committee heard arguments suggesting that Safe Schools was still finding its way into the state's classrooms despite the NSW Government abolishing the program and making abundantly clear its position that 'we do not teach Safe Schools materials in our schools and we would not expect them to be in use', and the following new paragraph be inserted instead:

Throughout the inquiry the committee heard from a number of witnesses who made unsupported assertions that the Safe Schools Program was being taught in NSW Government Schools.

Mr D'Adam moved: That paragraphs 1.54 to 1.59 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved that paragraph 1.60 be amended by omitting the six dot points after 'despite the official curriculum not containing teaching on gender fluidity'.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved that the breakout box after paragraph 1.60 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraphs 1.61 and 1.62 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraph 1.63 and the breakout box after paragraph 1.63 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Resolved, on the motion of Mrs Houssos: That footnote 61 to the breakout box titled 'Gender Sexuality Alliance meeting at Merewether High School, Newcastle' be amended by omitting 'Facebook Page, Mark Latham's Outsiders, posted 1 July 2021, <https://www.facebook.com/MarkLathamsOutsiders>. See also'.

Mr D'Adam moved: That paragraph 1.65 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraph 1.66 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Resolved, on the motion of Mr D'Adam: That paragraph 1.67 be omitted as follows: 'Contrary to Professor Masters' claims, the committee considers the family unit to be the cornerstone of society and the primary authority in a child's social, moral and ethical formation. In claiming that the peak effectiveness of the family unit is in decline, Professor Masters provides no evidence for this claim against families. In reality, there are millions of loving, devoted parents in New South Wales who don't see their families as in decline. They see themselves as doing the best job they can in raising their children, in inculcating values and developing character on a daily basis. Moreover, most families still see themselves as part of a clear division of responsibility in relation to the education system. Schools are there for academic excellence, vocational skills, and imparting knowledge and intellectual growth in children. Parents are responsible for the emotional, social and moral development of their children.'

Mr D'Adam moved: That paragraph 1.68 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That the following new paragraph be inserted after paragraph 1.68:

'The committee heard evidence supporting Hon Mark Latham's bill raising concerns about gender fluidity, none of this evidence articulated what the term means or what the position of the official curriculum should be on it.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraph 1.69 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraph 1.70 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Resolved, on the motion of Mr D'Adam: That paragraph 1.71 be omitted as follows: 'The incident at Merewether High also gives us cause for concern about what is happening in the state's schools under the guise of promoting acceptance and tolerance of diversity. The Minister's unsatisfactory response confirms she is not protecting parental rights. Instead of personally checking on the complaint and establishing the facts, she relied on the school and some bureaucrat to write out an answer for her. And been badly misled by them. Mitchell, in short, has failed in her duty of care to protect children in our schools from age inappropriate sexual content. Worst of all, the Minister has sent a message to every other school and teacher in the system that they too can make LGBTIQIAP 'education' a frontline activity. They too can ignore the legitimate rights of parents and get away with it.'

Mr D'Adam moved: That paragraphs 1.72 and 1.73 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraph 1.91 be amended by omitting all words and inserting instead 'The committee received no specific evidence that suggested that the controversial issues policy was failing to provide an adequate mechanism for resolving parent concerns at a local level.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraph 1.92 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved:

a) that paragraph 1.93 be amended by:

- omitting 'meagre' before 'ten LGBTIQ-related complaints' and
- omitting all words after 'and their families on a statewide basis' and inserting instead 'This would appear to indicate that the policy is working effectively to address most parental concerns at the level of the school.'

b) that paragraph 1.94 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That the following new paragraph be inserted after paragraph 1.93:

'One possible reason for the lack of complaints is that the broader population of students and parents do not have significant concerns about support for their transgender classmates and that any issues that arise are responded to appropriately within schools. In this highly probable situation the lack of complaints is a sign of overall harmony that this bill is seeking to disrupt by placing parents and schools in opposing camps to duel over the treatment of children, rather than trusting trained professionals to act in the best interests of a child's education.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Resolved, on the motion of Mr D'Adam: That paragraph 2.1 be amended by omitting 'Consistent with Mr Mark Latham MLC's second reading speech' before 'stakeholders supporting the bill.'

Mr D'Adam moved: That:

- a) paragraph 2.3 be amended by omitting dot points 3 and 4.
- b) paragraphs 2.4 to 2.9 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Resolved, on the motion of Mr D'Adam: That the following new paragraphs be inserted after paragraph 2.16:

'A number of witnesses expressed concerns that the Bill would create potential conflict with other statutory obligations. Ms Georgina Harrison in her evidence indicated that:

'the department acknowledges the legal risks identified in a range of the submissions received by this Committee including by the Law Society of NSW. The bill's provisions in their current form may create uncertainty against a range of State, national and international legal requirements, frameworks and conventions. For instance, there is a risk that the bill would be inconsistent with the Commonwealth Sex Discrimination Act 1984 and susceptible to legal challenge and invalidation. Anti-Discrimination NSW has also identified several legal and policy concerns in terms of the Anti-Discrimination Act 1977 and the bill's explicit prohibition on the teaching of gender fluidity. Whilst gender fluidity is not and has never been part of any New South Wales syllabus, all New South Wales schools have legal obligations to protect and support their students including those who are same-sex attracted or transgender.' [FOOTNOTE: Evidence, Ms Georgina Harrison, Group Deputy Secretary, School Improvement and Education Reform Group, NSW Department of Education, 21 April 2021, p 66]

Mr Ghassan Kassisieh from Equality Australia advised the inquiry that:

'Under the Federal Sex Discrimination Act, schools have an obligation in respect of education and that they must not either directly or indirectly discriminate against a student on the basis of their gender identity. This bill then says particular things about what a teacher, school counsellor and other school staff must and must not do in respect of, well, any student but including trans and gender-diverse students—so, specifically, the provision that deals with advice, counselling, instructions—that would prevent, for example, a school counsellor from acknowledging a trans and gender-diverse student that comes to them for assistance." [FOOTNOTE: Evidence, Mr Ghassan Kassisieh, Legal Director, Equality Australia, 20 April 2021, p 62]

Resolved, on the motion of Mr Shoebridge: That the following new paragraphs be inserted, with their placement to be determined by the secretariat:

Unlawfulness and unconstitutionality

The bill was considered to fundamentally contradict the NSW Education Act - specifically because the object of that act includes: encouraging diversity within schools and mitigating educational disadvantage arising from a child's gender [FOOTNOTE: Evidence, Mr Jared Wilk, Co-Convenor of the NSWCCCL Human Rights and Civil Liberties Action Group, NSW Council for Civil Liberties, 21 April 2021, p 65]. Furthermore the Law Society of NSW found the new proposed schedule 1 clause 4 "relating to provision of an education "consistent with the moral and ethical standards and the political and social values of parents of students"(sch 1, cl 4) may conflict with the Education Act's existing objective of promoting family and community values" [FOOTNOTE: Submission 15, The Law Society of New South Wales, p 4].

There were also concerns that the proposed 'amendments to the Teacher Accreditation Act 2004 (NSW) represent the sanctioning of unlawful and discriminatory practices' [FOOTNOTE: Submission 14, ACON, p 4]

The bill was also found to be in direct contradiction with the obligations teachers have as mandatory reporters under the Children and Young Persons (Care and Protection) Act 1998 which specifically includes a duty to report risks including psychological harm [FOOTNOTE: Submission 24, Independent Education Union of Australia NSW/ACT Branch, p 4].

More fundamentally the prohibition on recognising the existence of trans and gender diverse people will 'prevent schools from enacting their duty of care to the welfare of their students.' [FOOTNOTE: Submission 18, Australian Psychological Society, p 5].'

International treaties

It was pointed out that the bill does not comply with the 'guidance of the UN Treaty Bodies concerning children' [FOOTNOTE: Submission 11, Dr Elizabeth Coombs and Ms Colette Mahieu MA, p 2].

Existing consideration of this tension in the European Court of Human Rights is instructive and found that while parents have the right to respect for their ideology, 'the setting and planning of the curriculum fall in principle within the competence of the Member Country' [FOOTNOTE: Submission 11, Dr Elizabeth Coombs and Ms Colette Mahieu MA, p 5].

Mr D'Adam moved: That paragraph 2.29 be amended by inserting at the end: 'While the NSW Teachers Federation in their submission said: 'In law and in practice, parents are already considered to have primary responsibility over the education of a child, and it is the responsibility of the state to provide public education so that every child can receive an education of the highest quality.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Resolved, on the motion of Mr D'Adam: That paragraph 2.31 be amended by:

- inserting 'on the date and at the time slot made available by the committee' after 'to the inquiry hearings' and
- omitting 'two-page' before 'submission'.

Resolved, on the motion of Mr D'Adam: That the following new paragraph be inserted after paragraph 2.33:

'Mr Ghassan Kassisieh from Equality Australia expressed a view that the effect of the Bill could be to give licence to students whose parents held discriminatory views to express these views with impunity in a school environment:

My concern there is 17D prohibits any person at a government school from providing any instruction in matters of parental primacy if the parents object to that child's receiving that instruction. So how it would play out is a child who bullies another child expressing a particular social—so the definition of parental primacy then rolls in a parent's social views. If a child was expressing social views to another child that was sexist, ableist, homophobic, racist—whatever they are—and a parent then objected to their child being told not to express those views, that instruction could not be given because the parents had objected to their child being given those values that contradicted their own.' [FOOTNOTE: Evidence, Mr Ghassan Kassisieh, Legal Director, Equality Australia, 20 April 2021, p 63]'

Resolved, on the motion of Mr Shoebridge: That the following new paragraphs be inserted after paragraph 2.60:

"There were serious concerns raised that the bill would cause harm to young people's ability to get an education. The main mechanism was by creating an unsafe learning environment which 'severely compromises a students' educational outcomes [FOOTNOTE: Submission 14, ACON, p 6] and further when young people feel unsafe their ability to concentrate and focus, and thus their potential to excel, is cut off [FOOTNOTE: Evidence, A/Prof Jacqueline Ullman , Associate Professor, Adolescent Development, Behaviour, Well-Being and Pedagogical Studies, Western Sydney University, 21 April 2021, p 22].

Concerns were raised by the Women's Electoral Lobby that the provisions allowing children to be removed from learning by small groups of parents would undermine NSW public schools' capacity to provide quality, mainstream, universally accessible and secular education [FOOTNOTE: Submission 50, Women's Electoral Lobby, p 3]. Amnesty International also submits that the Bill contravenes the government's obligation to provide an education for all children [FOOTNOTE: Submission 63, Amnesty International, p 4]

The question was asked by Teddy Cook in his evidence to the committee:

'Do you want to create a system where you are making it easier for people to not get an education? That is the question I would ask. If you want to make it easier to take kids out of school, then fine. But I do think the place for kids is school, as much as possible' [FOOTNOTE: Evidence, Mr Teddy Cook, Vice President, Australian Professional Association for Trans Health, 20 April 2021, p 56].

Resolved, on the motion of Mr Shoebridge: That the following new paragraphs be inserted after paragraph 2.35:

'On the relationships between parents and schools

The Centre for Emotional Health said of the bill that 'It sets schools against parents rather than encouraging them to work together in the interest of children's social, moral, and gender development [FOOTNOTE: Submission 6, Centre for Emotional Health, Macquarie University, p 1]

Other submissions recognised the need for support for parents and teachers around this conversation with teachers having a key role challenging discrimination in the classroom and also supporting parents and students more broadly [FOOTNOTE: Evidence, Mr Jack Whitney, Co-Convenor, NSW Gay and Lesbian Rights Lobby, 20 April 2021, p 32].

The NSW Teachers Federation recognised the need for 'strong partnerships between teachers and parents which they have, and need to continue to have, to enhance the child's learning. These rights are already enshrined in legislation through the Education Act. The professional judgement of teachers, their qualifications, their training, their expertise, their skills and their experience ensures that they are able to address these matters as they arise in their classrooms within our professional standards, our curriculum, our policy and the legislative frameworks in which we operate [FOOTNOTE: Evidence, Ms Amber Flohm, Senior Vice President, New South Wales Teachers Federation, 21 April 2021, p 48].

The role of schools and families was viewed as complementary in forming young people's identities – 'School, as a forum for socialization, opens up access to different perspectives; thus, States and families have complementary roles that are not mutually exclusive with regard to sexual education' [FOOTNOTE: Evidence, Ms Georgia Burke, Co-chair, LGBTI Subcommittee, Australian Lawyers for Human Rights, 21 April 2021, p 63]

This partnership between families and schools was seen as undermined by a policy that switched focus from young people to 'resolv(ing) conflicts between and among parents as to what is taught to

their children' [FOOTNOTE: Evidence, Mr Ghassan Kassisieh, Legal Director, Equality Australia, 20 April 2021, p 57]. Another constraint was resourcing to ensure that 'the people who work hand in glove to bring up our children, to raise them and to educate them actually know each other and understand the priorities they each have' [FOOTNOTE: Evidence, Ms Penny Dakin, CEO, Australian Research Alliance for Children and Youth, 20 April 2021, p 32].'

Mr D'Adam moved: That paragraphs 2.36 to 2.43 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Resolved, on the motion of Mr Shoebridge: That the following new paragraphs be inserted into the report, with their placement to be determined by the secretariat:

'A large number of the submissions against the bill contested the idea that provision of information about the existence of trans people is ideology:

- providing information around gender and sexual diversity is not a core value and it is not an ideology. [FOOTNOTE: Evidence, Mr Ashley de Silva, Chief Executive Officer, ReachOut Australia, 20 April 2021, p 54]
- Trans kids are a natural and normal part of every community on earth. I did not know that before I had a trans child, nobody taught me that. The history of transgender people across the world—as Mr Cook said earlier, every indigenous culture across the world has got their own terminology for transgender people; this is not new, this is not a phenomenon. They are not the result of big pharma, they are not a contagion, they are not a narrative, they are not a belief, they are not an agenda, they are not a trend, they are not confused. Trans kids are not boys who play with dolls, or girls who play in the mud. Trans kids are not political footballs either. Trans kids are just like all other kids, except we got their gender wrong. Loving, supporting and affirming transgender kids is not an ideology. This is my son—he is a real person. [FOOTNOTE: Evidence, Ms Lannen Stapleton, Executive Director, Parents for Transgender Youth Equity, 20 April 2021, p 61].
- The second reading speech seems to equate politics in our schools with basic factual information about our families. My existence, taking my children to school, ought not to be rendered politics in our schools. [FOOTNOTE: Evidence, Ms Amy McGowan, Director of Advocacy for Rainbow Families, Rainbow Families, 20 April 2021, p 57]
- Parents resent the notion that a child talking about their family is ideological. The child's reality needs to be acknowledged and accepted, not stigmatised. [FOOTNOTE: Submission 12, Rainbow Families NSW, p 8]

The simple existence of transgender people is not an ideology, it is a biological, cultural and historical fact. For example: 'variations in gender identity and expression are part of the natural spectrum of human diversity that has existed across time and cultures' and 'Trans and gender diverse people have existed (though perhaps not by the name 'transgender') throughout history, across a range of cultures, including in First Nations clans across Australia [FOOTNOTE: Submission 14, ACON, p 5].

The imprecision of the use of the terms ideological and non-ideological in the bill and Second Reading Speech is also contested by the Law Society of NSW interpreting the definition as one which could reasonably include 'concepts familiar to Australians such as democracy, the rule of law, and freedom of expression arguably have a basis in ideology. Even secularism and secular instruction, specifically mandated by s 30 of the Education Act, has an ideological underpinning. The Bill's intention to

preclude 'non-ideological' teaching may therefore have the consequence of prohibiting teaching on a vast range of topics; in our view, an unworkable and undesirable result' [FOOTNOTE: Submission 15, The Law Society of New South Wales, p 4].

The labelling of transgender experience as ideology is argued to be based in a mistaken understanding 'about the relationship between biological sex and gender' [FOOTNOTE: submission 12, Rainbow Families NSW, p 3] which fails to recognise transgender young people are not an idea or ideology, they exist and are going to schools in NSW right now. Those concepts are not mere 'beliefs' as the Bill suggests – in contrast for example to religious beliefs which are based on faith. Oddly, this Bill itself creates what it criticises – a belief-based usage of the term' [FOOTNOTE: Submission 58, Public Health Association of Australia, p 3].'

Resolved, on the motion of Mr D'Adam: That the following new paragraphs be inserted after paragraph 2.50:

'Additional Administrative Burdens Created by the Bill

Both NESA and the Department conceded that the Bill, if passed, would impose additional administrative burdens on the agencies. In response to a question about whether NESA had sufficient resources to take on the additional investigative functions contemplated by the Bill NESA CEO Paul Martin responded:

'At the moment I would have to say that NESA would not—depending on the volume of search complaints and such accusations, no.' [FOOTNOTE: Evidence, Mr Paul Martin, CEO, NSW Education Standards Authority, 21 April 2021, p 72]

While then Deputy Secretary Georgina Harrison of the Department of Education conceded:

'In its current form it is considered likely that the bill would impose additional operational overheads for schools and increase the administrative burden for individual teachers.' [FOOTNOTE: Evidence, Ms Georgina Harrison, Group Deputy Secretary, School Improvement and Education Reform Group, NSW Department of Education, 21 April 2021, p 67]

Mr Northam from the IEU agreed:

'that it is an onerous and burdensome addition to what schools are already doing and would serve little purpose. Because the very nature of teaching—and I taught for 20 years prior to moving into working with the union—is that many questions emerge from students' mouths at a time when you might not be anticipating or even be able to predict same. It just happens and the professional judgement of teachers managed that situation.' [FOOTNOTE: Evidence, Mr Mark Northam, Secretary, Independent Education Union of Australia (NSW/ACT Branch), 21 April 2021, p 49]

While Mr Ghassan Kassisieh from Equality Australia observed:

'The red tape involved in submitting an annual summary of everything taught that may involve moral and ethical standards, political and social values, and matters of personal wellbeing and identity is reason alone why this bill cannot work in practice [FOOTNOTE: Evidence, Mr Ghassan Kassisieh, Legal Director, Equality Australia, 20 April 2021, p 57].

Mr D'Adam moved: That the following new paragraphs be inserted after paragraph 2.56:

'A number of stakeholders expressed concern about the effect of the Bill in causing teachers and support staff to withdraw from providing specific support for fear that it may contravene the provisions of the Bill. When asked about whether this 'chilling effect' was real Mr Mark Northam from the IEU said 'In my experience in recent times, absolutely. And I can only imagine that that would be reflected across school communities'

While Mr Ghassan Kassisieh from Equality Australia explained:

'this bill will have a chilling effect on teaching contemporary issues. Rather than equipping young people with a range of perspectives, teachers will fear losing their jobs from having to resolve conflicts between and among parents as to what is taught to their children.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Resolved, on the motion of Mr D'Adam: That the following new paragraph be inserted after paragraph 2.60:

'While Mr Ghassan Kassisieh from Equality Australia highlighted significant practical concerns that the bill provides no mechanism as to how a teacher is supposed to reconcile an objection from one parent which is not supported by the other parent of the same child. [FOOTNOTE: Evidence, Mr Ghassan Kassisieh, Legal Director, Equality Australia, 20 April 2021, p 59] Nor does the Bill provide a mechanism as to how a teacher is supposed to reconcile an objection from one parent not to provide an instruction to their child on a particular matter, when that child's behaviour is otherwise impacting on another child's well being and safety at school.' [FOOTNOTE: Evidence, Mr Ghassan Kassisieh, Legal Director, Equality Australia, 20 April 2021, p 63].

Resolved, on the motion of Mr Shoebridge: That the following new paragraphs be inserted after paragraph 2.61:

'One of the concerns about s 17D is how it would work in practice: 'This veto clause arms any parent with particular views with the ability to prevent a teacher disciplining their child when they bully another who is different' [FOOTNOTE: Evidence, Mr Ghassan Kassisieh, Legal Director, Equality Australia, 20 April 2021, p 58]

While education is not to be provided with a particular ideological bent, there is a clear value on debate and discussion including the exploration of issues [FOOTNOTE: Evidence, Ms Georgina Harrison, Group Deputy Secretary, School Improvement and Education Reform Group, NSW Department of Education, 21 April 2021, p 70] (This exposure to a range of belief systems and ideologies is considered beneficial for student development, and part of fostering a socially cohesive diverse society [FOOTNOTE: Submission 28, Australian Research Alliance for Children & Youth, p 5]. Conversely legislating this bill was seen as endorsing prejudice and threatening social cohesion [FOOTNOTE: Submission 53, Social Justice in Early Childhood Foundation, p 3].

Opponents of the bill argued that the focus should be not on ensuring all content accords with parental values but that 'students be supported to process any emotional response to content that does not coincide with their core values, and that teachers are encouraged to recognise the validity of their response, which may be based on the core values of their parents, or their own core values. Schools should be a safe place where students are encouraged to consider different perspectives and learn to disagree in a safe, respectful way' [FOOTNOTE: Submission 17, The Office of the Advocate for Children and Young People and The Office of the Children's Guardian, p 2].

Concerns were also raised that prohibiting the teaching of ideological values would be used to deny 'students a quality education on contemporary and important topics including comprehensive sexuality education, climate change, Australian history and racism' [FOOTNOTE: Submission 23, Family Planning NSW, p 3].

Multiple submissions referenced the damaging experience in England after an equivalent to 17D was introduced by the Thatcher Government in the 1980s.'

Resolved, on the motion of Mr Shoebridge: That paragraph 2.66 be amended by omitting 'The weight of evidence made this clear' after 'In the committee's view, the protections within the bill have solid grounding and justification in international human rights conventions.'

Mr D'Adam moved: That the following new paragraphs be inserted after paragraph 2.62:

'The Right of Students to Access Information

The Committee heard evidence on the issue of the right of children to have access to information that could be protective of their health and wellbeing even when this may be in conflict with the wishes of a parent. Associate Professor Ullman observed:

'I think we know, particularly now in the information digital age, if young people are not granted access to vetted information by professionals, educators, health professionals that we know to be factually correct—if young people do not have access to that through trusted adults, they are going to turn to online sources for that information, and we are all well aware of the kinds of online sources that they might encounter that may provide misinformation, frightening and—you talk about age appropriate—not at all age-appropriate information. So I think we need to trust our educators and our professionals to be able to provide information that will be age appropriate, that will be aligned with the developmental stage of young people. I do not think that parents have control over their child's gender expression. If they did and if that were possible, I think in households that were opposed to the idea or who wanted to erase gender diversity or transgender identities, then somehow that would work—and it does not.'

When pressed further on this question in relation to her research around parental views and the approach to be taken when parents do not want their child to have access to information on gender diversity Associate Professor Ullman stated:

'So within that 14 per cent it is entirely possible that some of those young people may themselves be questioning their gender identity or that they may themselves be gender diverse. So those kids, it is incredibly important that they have access to an advocate, to a supportive adult, because we know the difference that just one adult can make—if a child has access to just one adult, the difference it can make to their life trajectory. I find that question difficult because I do think that it is incredibly important for particularly gender diverse young people to be able to have access to that information.'

Associate Professor Ullman also expressed the view that the access to this information was also important for all children, stating:

'I would also say that it is important for all kids to have access to that information. Why? Because this is the world in which we live. The bill uses the terminology of ideology quite a lot to talk about gender fluidity as if it is something that we can believe in, but it is not a belief. It is a fact. These people exist. So I think it is important that kids are exposed to information about the realities of the social world in which they live. I know that this gets at the heart of this bill, the questions of parental primacy, but I think we are also—if we just focus on that, we are forgetting about the rights of young people and their right to information.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Ms Cusack, Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Resolved, on the motion of Mr Shoebridge: That the following new paragraphs be inserted after paragraph 2.16:

'Significant concerns were raised about legislating for a model of parental primacy and in particular defining parents as having rights over and above schools and indeed children themselves.

Stakeholders broadly recognised the pre-eminent role of parents in educating their children, but reinforced that this cannot be an absolute right because children also have rights [FOOTNOTE: Evidence, Dr Lesley Lynch, Convenor of the NSWCCJ Criminal Justice, Police Powers and Mental Health Action Group, NSW Council for Civil Liberties, 21 April 2021, p 62].

The conception of parental primacy potentially trespasses directly on the requirements under the Conventions on the Rights of the Child, as well as 'the right to non-discrimination or freedom of expression, noting that that latter right includes the right to receive information and ideas as well as express them' [FOOTNOTE: Evidence, Mr Kirk McKenzie, Member, Human Rights Committee, Law Society of New South Wales, 21 April 2021, p 57].

The impact of parental rights superseding those of children was seen as able to 'significantly impact children's healthy development and wellbeing' [FOOTNOTE: Submission 18, Australian Psychological Society, p 4]. This was of particular concern during the normal period in adolescence when young people are exploring their identities and shifting attachments to power and social groups. Some submissions highlighted that the primary function of parental primacy was in situations relating to gender fluidity which creates a paradox of different parents having different rights: 'this Bill creates unequal rights among parents, where the perspective of parents who oppose 'gender fluidity' is privileged over that of parents who support and affirm the existence of trans and gender diverse people' [FOOTNOTE: Submission 14, ACON, p 10].

The notion of parental rights was also one-sided conferring only rights and ignoring concomitant responsibilities - for instance it 'neglects mention of the responsibility of parents and adults to ensure our educational institutions are safe places for all children' [FOOTNOTE: Evidence, Ms Georgia Burke, Co-chair, LGBTI Subcommittee, Australian Lawyers for Human Rights, 21 April 2021, P 58]

It is also important to remember that not all families are safe places for young people, particularly trans and gender diverse young people. Family conflict is a significant cause of youth homelessness with relationship/ family breakdown the reason given by 25% of young people accessing social housing in NSW [FOOTNOTE: Submission 13, YFoundations, p 4]. The bill also fails to account for situations where the school disclosing to the family could be an unsafe pathway for the child, with expert stakeholders attesting this is a very real experience for young trans and gender diverse people in NSW [FOOTNOTE: Evidence, Ms Jain Moralee, Co-Executive Director, Twenty10 inc GLCS NSW, 20 April 2021, p 30]'

Ms Cusack withdrew from the meeting at 1.20 pm.

Mr D'Adam moved: That paragraphs 2.63 to 2.68 be omitted and the following new paragraph be inserted instead:

"The committee remains unconvinced of the utility or necessity of the proposed Bill. There is no credible evidence before the committee that there is teaching of gender fluidity, in the way characterised by the bill's proponents, occurring in NSW schools. Nor is there any credible evidence that the wishes of parents are being ignored in the NSW Government School system. Nor is there evidence that parental concerns are not being appropriately managed through the existing controversial issues policy framework.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That Recommendation 1 be amended by omitting all words and inserting instead 'That the Education Legislation Amendment (Parental Rights) Bill 2020 not proceed.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That Recommendation 2 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That Recommendation 2 be amended by omitting all words after 'the International Covenant on Civil and Political Rights' and inserting instead:

'that the NSW Government must ensure that 'All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.' Insofar as this Bill trespasses on this obligation it must be rejected.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That Recommendation 3 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That the committee adjourn to a later hour.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraphs 2.69 to 2.71 and Recommendation 4 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That Recommendation 4 be amended by:

- a) omitting 'and deference' after 'priority'
- b) omitting 'This reform should include the addition of a list of issues known to be controversial and divisive within schools communities, and to be updated by the Department of Education on a regular basis. These should be issues where a significant proportion of public opinion (including parental opinion) is uncomfortable about the teaching of certain material, especially when taught from just one perspective (such as identity politics and gender fluidity)' after 'parental authority'.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraph 2.72 be amended by:

- a) omitting 'The inquiry raised other issues about the relationship between teachers and parents in schools' and inserting instead 'In the course of the inquiry it was evident that there are opportunities to improve the involvement of parents in the education of their children'
- b) omitting 'needs' and inserting instead 'can'
- c) omitting all words after 'progressing academically.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That paragraph 2.72 be amended by omitting all words after 'in looking after other people's children.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraph 2.73 be amended by omitting 'In the committee's opinion, it is not sufficient for teachers to say 'we know best' or 'inside the school grounds only teachers know what to do'. Schools must provide as much information as possible to parents about what is happening with their children. Generally, due to their fee-paying nature, non-government schools in New South Wales have been better at this than government schools' and inserting instead:

'In the committee's opinion, schools should strive to provide parents with as much information as possible about what the school is doing and the progress their children are making.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraph 2.74 be amended by omitting 'It is our view that government policy should address this problem. Thus the committee recommends two further reforms: 1. Government schools should display on their website a regular update of the text books and learning materials used in their classrooms, involving all student instruction organised by school staff and external consultants, excluding student presentations. Learning materials should be defined as any material used for student instruction, including, but not limited to, textbooks, other reading materials, videos, digital materials, websites and other online applications.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That Recommendation 5 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That Recommendation 5 be amended by omitting 'make it mandatory for' and inserting instead 'request that'.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraphs 2.77 to 2.84 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That paragraph 2.80 be amended by inserting at the end: 'The focus on gender fluidity as a concept to be debated elides the simple truth that transgender young people exist in schools in NSW. It is unclear what a prohibition on teacher gender fluidity would mean but it appears from the witness testimony in support of the bill that the intention of this prohibition is to entrench transphobia as official education policy where teachers and students are not able to discuss or recognise transgender experience. This is deeply harmful and damaging.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That the following new paragraph be inserted after paragraph 2.88:

'When asked about why it was important to draw a distinction between biological sex at birth and gender Associate Professor Ullman explained:

'Because they are not the same thing. Firstly, and I think this is at the heart of the bill, for some people their experience and self-identified gender is not aligned with their biological sex. That is, I think at the foundational level, part of what we are talking about here and where that is happening for young people, how schools and adults can best support them. But for all of us, simply because we are assigned a particular biological sex, it does not then create a road map for who we are as people. So foundational understandings of our own gender and the way that we express ourselves, that is something that can change over time. It has changed for human society at different times historically in different cultures and different geographical locations. It is something that is shaped by the other people around us in the way that we learn from them and react to them. So these things are not the same and I am sort of surprised that we are still talking about that.'

As similar position was elaborated on by Professor Damien Riggs:

'I have not heard in any of the conversations from the Committee that anyone is claiming that transgender people do not exist. So we accept that trans people exist and so that means we accept that for some people there is no inherent relationship between assigned sex and gender. So by doing that, we come to an understanding that there is a correlation between sex and gender but it is not causative. I think that, to me, is a really useful way to think about that, that for a great majority of the population no-one is denying that there is some kind of relationship. People are declared to be male at birth, for example, and they express themselves to be male. So there is a correlation there, and that is true for most people. But by the very fact of trans people's existence, there is not a causative relationship there. And I think that is a really useful thing to keep in mind and how we can then come down to understand that if we are talking about relationships here between different life experiences that is why, as all the other speakers have said so well in this session, we need to make sure that we are creating these spaces where trans people's voices and young people can be included in schools because we know that trans people exist.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That the following new paragraphs be inserted after paragraph 2.89:

'Health impacts of attacks on Gender Fluidity

Almost all of those who opposed the bill raised concerns about the impacts the changes would have on the health of vulnerable young people where they understood Gender Fluidity to be specifically referring to current practices of supporting and affirming transgender and gender diverse young people.

This ranged from the impact on children in gay and lesbian families who would not be able to speak about their families at school[1], through to the direct impacts on 'the health, wellbeing, and safety of trans and gender diverse students and members of the school community' (Page 6 ACON submission 14). The changes were seen as working directly against the best evidence from health and education professionals on how to respond to trans and gender diverse students (Page 6 ACON submission 14).

One of the ways the bill was seen as posing this risk is insofar as it seeks to 'normalise mistreatment of and discrimination against' trans and gender non conforming young people (Page 3 ICLC, HALC, Community Legal Centres NSW, Community Legal Centres Australia submission 26). The prohibition on discussing trans identities within schools was seen as sending a message to young people that 'these issues somehow do not matter, they are not worthy of being discussed and they are not worthy of being talked about at school' (Tuesday 20 April hearing Penny Dakin, CEO, Australian Research Alliance for Children and Youth). For a cohort of young people who are identified as particular risk of anxiety, depression, and self harm this was seen as particularly concerning. Many opponents of the bill provided detailed research showing the vulnerability of these young people - for instance 'according to 2017 research, approximately 75 per cent of young trans Australians self-report experiencing anxiety or depression, 80 per cent have self-harmed and almost half have attempted suicide' (Page 56 Wednesday 21 April Hearing Jared Wilk, Co-Convenor of the NSWCCCL Human Rights and Civil Liberties Action Group, NSW Council for Civil Liberties).

They were careful to point out that gender diversity is not considered a disease or pathological state but rather an expression of the natural spectrum of human diversity - with approximately 1.2% identifying as transgender (Telfer, Tollit, Pace, & Pang, 2020). Australian Research Alliance for Children & Youth submission 28. The risk is created by transphobia, bullying by other student and teachers, and the pressure to conform to rigid gender stereotypes Centre for Emotional Health, Macquarie University - submission 6). Domestic Violence NSW pointed out the clear link between strictly enforced gender stereotypes and violence against women and children which the national plan to end violence against women and their children seeks to address (Wednesday 21 April Hearing Renata Field, Research and Policy Manager, Domestic Violence NSW). The impact of these norms rendering trans and gender diverse people invisible, are part of how discrimination against these people is perpetuated ((Carman, et. al., 2020). Page 4 Domestic Violence NSW submission 29). The evidence from Women's Safety NSW went as far as to say: 'the new laws would act to counter our efforts in tackling domestic and family violence in NSW by interfering with our primary prevention activities' (Page 1 Women's safety NSW submission 40).

Of particular concern was the risk that the changes proposed by the bill would result in the misgendering of students or the intentional rejection of gender-affirming language. The Centre for Emotional Health pointed out that 'misgendering, whether malicious or unintentional, serves to invalidate an individual's gender identity (McLemore, 2015)' (Centre for Emotional Health, Macquarie University - submission 6). Gender affirming language was considered among the most essential responses to trans and gender non-conforming young people, with recognition that: 'Withholding of gender affirming treatment is not considered a neutral option, and may exacerbate distress in a number of ways including depression, anxiety and suicidality, [and] social withdrawal' (Telfer, Tollit, Pace, & Pang, 2020) page 7 Australian Research Alliance for Children & Youth submission 28. The existing Australian Standards of Care and Treatment Guidelines for trans and gender diverse young people make clear that gender affirming care is fundamental and where it is not

provided there are serious risks to young people's mental health (Page 2 Australian Psychological Society submission 18).

Further critical activities that would be blocked by the bill include counselling services within schools for gender diverse young people experiencing discrimination and active intervention to stop transphobic bullying by other students (Page 5 ICLC, HALC, Community Legal Centres NSW, Community Legal Centres Australia submission 26).

The alternative path proposed by Family Planning NSW was the early intervention strategy of comprehensive sexuality education - which would not just address the concerns identified above but would also improve 'student health literacy and contributes to reduced sexual risk taking, including delayed initiation of sexual intercourse, increased use of contraception and condoms, and reduced engagement in gender-based violence' (page 5 Family planning NSW submission 23).

[1] "This bill has the potential to make it dangerous for my five-year-old son to draw his family in kindergarten (Tuesday 20 April hearing)"

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraphs 2.90 to 2.105 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That the following new paragraph be inserted after paragraph 2.95:

'A young person being able to identify as their real self is clearly appropriate and the argument that this is inherently damaging to children is not supported by any of the evidence. There is in fact significant contrary evidence that affirming young people in their gender can literally be life saving.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That the following new paragraphs be inserted after paragraph 2.106:

'The overwhelming majority of submissions against the bill rejected the use of the term 'gender fluidity' at all. The Gay and Lesbian Rights Lobby for instance said: '-the lobby do not use the term 'gender fluidity', we use the term 'transgender' and 'non-binary'. Tuesday 20 April hearing Jack Whitney, Co-Convenor, NSW Gay and Lesbian Rights Lobby.'

Intersex Human Rights Australia (IHRA) reflected on the implications of the term as used by the Hon Mark Latham in The Education Legislation Amendment (Parental Rights) Bill 2020 bill and the second reading speech as one that includes three, contradictory ideas of intersex people:

- the bill refers to ‘people who are, by their chromosomes, male or female but are born with disorders of sexual differentiation’, within a statement on ‘gender fluidity’ and a definition of biological sex (Latham 2020a). This reference makes the claim that intersex people are female or male but have certain disorders.
- the second reading speech by Mark Latham contrarily refers at 16:50:42 on 5 August to ‘the fixed biological reality of gender in that, other than a small number of cases, people are born male or female’ (Latham 2020b). This reference makes the claim that intersex people are not female or male and perhaps have no ‘fixed biological reality of gender’, suggestive of gender fluidity.
- the second reading speech also refers to a ‘MultiVerse’ module on ‘Intersex Identities’ (Latham 2020b). This reference is suggestive that intersex is an identity category. Intersex Human Rights Australia Page 5 Submission 3'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That the following new paragraphs be inserted after paragraph 2.107:

'Mr Ghassan Kassisieh from Equality Australia explained that the effect of the prohibition on the teaching of Gender Fluidity as defined by the Bill would be to impinge on the right of a person to be addressed using their preferred pronouns. He explained it this way:

'So any teaching, instruction or counselling that presumes that there can be a difference between biological sex and gender, like using pronouns that refer to a child that was assigned male at birth who identifies as female, is the expression of a belief that there is a difference between those two things.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

The Chair left the meeting at 2.09 pm. In the absence of the Chair the Deputy Chair took the Chair.

Mr D'Adam moved: That the following new paragraph be inserted after paragraph 2.111:

"There was concern by some stakeholders that the Bill may place limitations on the ability of teachers to address the environmental risks created by discriminatory attitudes that can contribute to harm being caused to Gender diverse students. Associate Professor Ullman observed:

"The concept of safety is a foundational need, right? We know this. This is basic information. When young people feel unsafe their ability to concentrate and focus, and thus their potential to excel, is cut off. I think this is also at the heart of it, you know. If teachers are prohibited from engaging in conversations that would support these young people, that would enhance their sense of safety, that would actually help to dismantle some of the processes that are at the heart of discrimination and harassment—if teachers cannot do that then they are cut off from creating those safe environments for kids and that has impact on their sense of academic self and their academic outcomes."

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos.

Question resolved in the negative.

The Chair returned to the meeting at 2.12 pm and took the Chair.

Mr D'Adam moved: That the following new paragraph be inserted after paragraph 2.115:

'Some stakeholders explained that Trans students were a reality in school communities and as a consequence teachers needed to be equipped to be able to adequately support these students. These stakeholders believed the Bill would create obstacles to this professional development being delivered. Mr Northam from the IEU stated that:

'professional development was being sought by our members as a way of understanding and being able to support—not to become experts within it and be offering advice that they have not got the capacity to do, but rather to make education work based on that understanding. We have had several hundred of our members who would have engaged in that training, the personal development that we developed to make schools a better place for students.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That the following new paragraph be inserted after paragraph 2.116:

Evidence was received that 'students with a strong sense of belonging and acceptance in the classroom tend to be happier, have a greater interest in school activities and are more confident' (Tuesday 20 April hearing Ashley de Silva, Chief Executive Officer, ReachOut Australia). As the Council of Europe notes not only does information about LGBTI people not harm children 'Rather, it is in the best interests of children to be informed about sexuality and gender diversity' (Page 58 Wednesday 21 April Hearing Georgia Burke, Co-chair, LGBTI Subcommittee, Australian Lawyers for Human Rights).

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That the following new paragraphs be inserted after paragraph 2.118:

'Other stakeholders indicated concerns relating to the difficulties the Bill would create in terms of its practical application. Mr Mark Northam from the IEU expressed concern about the process for establishing when a Teacher may have transgressed the provisions of the Bill and the significant consequences of loss of accreditation that would flow from such a finding:

'the impact would be considerable and you are putting school principals in the invidious position of trying to establish what might have happened inside a particular classroom at a particular point in time, which is, as I mentioned earlier, far from an easy process. The parallel would be with child protection investigations, which are plentiful in the school sector. So I am guessing that you would

have more teachers who would be facing the sanction of losing their NESAs accreditation, which would then apply to every State and Territory in Australia and largely Commonwealth nations, to use an old term. So it would be significant and career ending."

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That the following new paragraphs be inserted after paragraph 2.119:

"The prevalence of help-seeking channels within schools was considered high and in this context a significant number of students would be turning to staff and not just peers: 'a third would turn to a teacher and 30 per cent to a school counsellor when they need help or support.' (Tuesday 20 April hearing Ashley de Silva, Chief Executive Officer, ReachOut Australia).

If the bill passed and made seeking and giving support and information in schools impossible there were concerns raised about the risks posed by young people instead seeking information online:

'I think we know, particularly now in the information digital age, if young people are not granted access to vetted information by professionals, educators, health professionals that we know to be factually correct—if young people do not have access to that through trusted adults, they are going to turn to online sources for that information, and we are all well aware of the kinds of online sources that they might encounter that may provide misinformation, frightening and—you talk about age appropriate—not at all age-appropriate information' (Wednesday 21 April Hearing Jacqueline Ullman, Associate Professor, Adolescent Development, Behaviour, Well-Being and Pedagogical Studies, Western Sydney University)

Surveys of young LGBTI people 'demonstrated that a school climate that fosters a supportive environment of all students, regardless of sexual orientation or gender identity, is conducive to increased student wellbeing.' Page 5 Centre for Emotional Health, Macquarie University - submission 6

The key for gender nonconforming young people is supportive staff and data was provided to support this claim: "Transgender students who do not receive teacher support have been found to be over four times more likely to leave school (23% compared to 5% of those with teacher support) and twice as likely to hide at lunch (50% compared to 23% of those who had teacher support). Students without teacher support also are two to three times more likely to encounter various forms of harassment and abuse from other students (T. M. Jones et al., 2016). Page 4 Centre for Emotional Health, Macquarie University - submission 6.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That paragraphs 2.120 to 2.134 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That the following new paragraph be inserted after paragraph 2.125:

'The Australian Family Association's position fails to recognise that young transgender girls are girls, and are appropriately included in sport and other activities with other girls. To force them to be with boys would be a significant infringement of their rights and safety.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That paragraph 2.129 be amended by omitting 'males' and inserting instead 'transgender women.'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That:

- a) paragraphs 2.135 to 2.142 be omitted
- b) paragraphs 2.143 to 2.144 be omitted
- c) paragraphs 2.145 to 2.155 be omitted
- d) paragraphs 2.156 to 2.162 be omitted

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr D'Adam moved: That:

- a) Recommendation 8 be omitted
- b) Recommendation 9 be omitted
- c) Appendix 2 – Bulletin 55 be omitted.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That Recommendation 8 be amended by:

- omitting '1.The Safe Schools program and Gayby Baby movie are prohibited in NSW Government schools. Gender fluidity is not part of the NSW school curriculum and therefore, should not be taught or promoted, either in classrooms, teacher professional development, by external consultants, special school activities or through the distribution of material to teachers or students. This prohibition also applies to the teaching of gender as a "social construct" and inserting instead '1. All decision making involving transgender students should prioritise the young person's wellbeing, autonomy and expertise of their own lives and identity.'
- omitting '3. Schools cannot regard a student as transgender without regard to advice from medical experts and/or parents/guardians. Schools must always inform parents/guardians of relevant information and involve them at every stage of the decision making process' and inserting instead 'where possible, schools should inform parents/guardians of relevant information and involve them at every stage of the decision making process.'
- omitting '4. No school or school staff can withhold information from parents about the gender or gender transition of a student at the school, other than by a court order or acting with the advice of a government child protection agency' and inserting instead '4.Information should be provided to parents where providing this is consistent with the young person's wellbeing.'
- omitting '5. No student has the right or capacity to stop the school telling their parents information about their gender, where the school is obliged to do so.'
- omitting '6. No student under the age of 18 can change their name at school (away from the name on their birth certificate) without the consent of both parents/guardians with whom they live. In the case of shared custody, the consent of both parents is required.'
- omitting '8. In school sport, once students reach high school (Year 7) they should not compete outside of their biological gender. This policy recognises the strength advantages teenage boys develop over girls.'
- omitting '9. Other than in circumstances of a full medical gender transition, students born biologically male shall not be allowed in female toilets, change rooms, dormitories and excursion accommodation; and vice versa for students born biologically female. Third options shall be made available for these students, such as administrative block toilets and change rooms.'
- omitting '10. If schools establish, either on the initiative of teachers or students, groups involved with support and discussion of matters concerning gender and sexuality (such as LGBTIQIAP support groups), students under the age of 18 shall only participate following the granting of parental consent.'
- omitting '11. For students aged under 18 years, school counsellors should not involve themselves in questions of gender fluidity and transition without prior reference to parents and any medical professionals advising the student and parents on this matter. Parents have the right to know if gender fluidity and transition are being discussed at school. School counsellors must liaise with parents and relevant medical professionals as much as possible.'
- omitting 'in advance' and inserting instead 'about this information' in the final sub-paragraph of the recommendation.

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Mr Shoebridge moved: That the following new paragraphs be inserted after paragraph 2.162:

'Needs of schools and teachers

A significant unaddressed need identified by submissions critical of the bill was the additional education of teachers, information for parents, and academic freedom. In the current landscape it was identified that often parents of transgender children need to educate schools because of a lack of teacher training including on bulletin 55 (Tuesday 20 April hearing Carlie Henderson, member, Parents of Transgender Youth Equity).

A significant body of research was identified which shows teachers need professional development to help them teach about gender identity and keep students safe - consequences of this were severe: 'Without training, teachers often fail to intervene when gender nonconforming youth are harassed by others, sometimes even blaming gender nonconforming individuals, or initiating harassment, contributing to a hostile school environment' (Gutierrez, 2004; Higa et al., 2014; McGuire et al., 2010; Payne & Smith, 2011; Sausa, 2005) (page 6 Centre for Emotional Health, Macquarie University - submission 6). Resources are few and far between as is professional help - teachers are important for this as are psychologists in schools (Page 3 Australian Psychological Society submission 18).

Resources are currently provided by a number of NGO who made submission including Twenty10 who advised 'We are inundated with requests for support and information from schools and parents who have students or children who are transgender and/or gender diverse.'

Rather than the proposed limitations in the bill, submissions argued that schools should focus on creating safe, respectful and including schools (page 6 Western Sydney community forum submission 65) with adequate teaching resources. The development of education programs for teachers and broader school communities should be developed with trans people (Tuesday 20 April hearing Teddy Cook, Vice President, Australian Professional Association for Trans Health).

Academic Freedom

There were also concerns about the impact of the proposed bill on academic freedom (23 page 4 Dr Elizabeth Coombs and Ms Colette Mahieu MA) with concerns raised about 'the proposed silencing of academic discourse and debate in teacher preparation courses and the ongoing implications of this for pre-service teachers entering the teaching profession with potentially no knowledge or education in this area (Wednesday 21 April Hearing Tania Ferfolja, Associate Professor, Primary Education, School of Education, Western Sydney University).'

Question put.

The committee divided.

Ayes: Mr D'Adam, Mr Shoebridge

Noes: Mr Fang, Mr Farlow, Mrs Houssos, Mr Latham.

Question resolved in the negative.

Resolved, on the motion of Mr D'Adam: That:

- a) paragraph 2.162 be omitted as follows: 'Thus, the committee recommends that in gauging community attitudes to questions of gender fluidity and transgenderism, the NSW Government should rely only on independent, professional research organisations. The work of Western Sydney University, the Office of the Children's Guardian and the Children's Advocate should be treated with skepticism.'
- b) Recommendation 10 be omitted as follows: 'That, in gauging community attitudes to questions of gender fluidity and transgenderism, the NSW Government should rely on independent, professional research organisations. The Office of the Children's Guardian and the Children's Advocate should be advised of this requirement.'

Resolved, on the motion of Mr Farlow: That:

- the draft report, as amended, be the report of the committee and that the committee present the report to the House;
- the transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions and correspondence relating to the inquiry be tabled in the House with the report;
- upon tabling, all unpublished attachments to submissions and individual responses to the online questionnaire be kept confidential by the committee;
- upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;
- the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- the committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- dissenting statements be provided to the secretariat by 11.00 am Friday 3 September 2021;
- the secretariat to table the report on Monday 6 September 2021;
- the Chair to advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

4. **Adjournment**

The committee adjourned at 2.50 pm, *sine die*.

Anthony Hanna
Committee Clerk

Appendix 6 Dissenting statements

The Honourable Anthony D'Adam MLC, Australian Labor Party

This is a harmful piece of legislation that will do real and lasting damage to our education system. The balance of the credible evidence received by the committee confirms this. Every child has the right to feel safe at school but this legislation threatens that safety. Under the umbrella of “Parental Primacy,” it gives licence to parents to undermine the efforts of teachers and principals to make schools welcoming and safe learning environments for those kids who are gender diverse. The evidence taken by the committee is that these children are vulnerable and are more at risk of self-harm. In spite of this evidence, the committee has recommended in favour of these key elements of the Bill.

Teachers have a duty of care to all children and they should be supported and not obstructed in their discharge of this duty. The committee received evidence that teachers are looking for professional development to help them better support gender diverse students, professional development that this Bill will undermine or prohibit. The report omits this evidence.

Our schools are places where discriminatory attitudes should be confronted, not coddled. Children should be taught about the world as it is and not be educated in a way that seeks to erase the existence of the Trans community. Children should be taught to accept and embrace diversity. Teachers should be empowered to be able to teach about the complex issues that confront our society. They should be able to do this without fear that these lessons will be weaponised to attack them in articles in the Telegraph and without fear that they will lose their job or their ability to teach in the future. The Committee’s report does not adequately consider the measures contained in the Bill relating to the mandatory cancellation of teacher accreditation.

The measures in this Bill which mandate that teaching must be ‘non-ideological’ will put a chill through our classrooms. Neither the Bill nor the report defines this term. It will be difficult for teachers to interpret day-to-day. At its core, this bill is an attempt to censor what is taught in our classrooms to accommodate the views of a minority. As a society, we have a process for collectively agreeing on what gets taught at schools through the development of the curriculum. This is done at a societal level and is not a matter to be negotiated on a school by school or child by child basis.

Nevertheless, the Committee makes recommendations that undermine the integrity of the curriculum through its proposal to facilitate the withdrawal of students under broadened conscientious objection provisions and through the auspice of a revised controversial issues policy. The committee received no direct evidence that this policy was failing. At no point did the committee hear from teachers or parents about their experience of dealing with a controversial issue in a real-life example. Despite this, the committee has determined without any evidentiary foundation that this policy is not working and requires revision.

At the heart of the arguments put forward by the proponents of the Bill is the assumption that the rights of parents should have ‘primacy’ without an adequate balancing of these rights when they may be in conflict with the rights of children. The tension in this assumption was well explained by Associate Professor Ullman in evidence which should have been included in the final report but has been omitted because of the position adopted by the majority of the committee. The key thrust of this evidence was

that children have a right to information that may help them and potentially keep them safe from harm and that all children have the right to learn about the world as it is including that there are gender diverse kids and that these children, like all others, are deserving of a safe, welcoming, and affirming learning environment.

Conduct of the inquiry

The Bill under examination is a divisive piece of legislation that will have far-reaching consequences for the education system if it is passed. In this context, the committee has a duty to the Parliament to prepare a report that fairly represents the full spectrum of opinions and analysis from a wide range of stakeholders both for and against the Bill. Unfortunately, that is not what has been done through this report.

Proponents of the Bill have deployed a number of procedural tools to understate the negative consequences of this Bill, including its vulnerability to legal challenge. This bias was reflected in the selection of witnesses who appeared at the inquiry and in the Report's weighting of evidence. The report neglects to mention, for instance, that the overwhelming majority of submissions to the inquiry opposed the Bill.

Despite the Bill's notional concern for 'parental rights', the organisation with a statutory role to represent parents in public schools was not given an adequate opportunity to appear before the inquiry. In place of the legitimate and considered views of parents, policy experts, and teachers, the Report cites Daily Telegraph articles as evidence of fact. The manipulation of the Committee process has been used to present an unbalanced and one-eyed view of the Bill. The Report does not reflect the high standards of evidence and impartiality which are the custom of the Legislative Council Committee system.

The conduct of this inquiry has been problematic from its inception. The reference of the Bill to the portfolio committee where the chair of the committee is also the sponsor of the bill being examined is problematic and in future, this course of action should be avoided.

Mr David Shoebridge MLC, The Greens

Instead of reading the bulk of this committee report I have a recommendation for you - go and read Teddy Cook's evidence to this committee, or watch the video of this evidence on the LGBTI Rights Facebook page. As Teddy says, trans is not an ideology, trans is a person. That person deserves care, support and access to a quality education.

In a short amount of time, the proponents of this bill will be seen just like those rejecting integration of schools - as captured by hate and bigotry, and willing to sacrifice real young people for their own political ends. Proponents of the bill including The Reisman Institute (submission 19) attempt to link transgender people and their supporters with pedophilia, highlighting some of the deep transphobia that this Bill risks giving succour to.

There aren't two sides here who deserve equal consideration and respect, there is a side who are willing to make schools dangerous places for trans and gender diverse young people together with the teachers, counsellors and other school staff working to support them, and on the other hand those who are trying to stop them from doing this. The support given to the former position by representatives from One Nation and both major parties in this inquiry reflects the very worst of politics.

This conduct of this inquiry was marked by significant irregularities which are not documented in this report. Critical witnesses were not given adequate time: for an inquiry about parental rights the inquiry couldn't find time for the Parents and Citizens Association to come and present. They opposed the bill of course. There was a single transgender witness, and the opinions and experience of trans people were ignored. The survey questions appear to have been written by the Chair and were heavily biased towards supporters of the bill. The preliminary results of the survey were leaked to an external religious lobby group to encourage more one-sided submissions, raising concerns about unreasonable politicisation of the inquiry.

There was also a substantial irregularity with the publication of a submission from the Catholic Diocese of Parramatta (submission 32) which was later replaced by another, contradictory submission (submission 82). The initial submission strongly opposed the bill - calling it an "unacceptable incursion into the professional judgement of Catholic schools and school systems".²⁷⁵

The committee received significant peer reviewed data showing the risks trans young people are currently exposed to in schools, and the powerful corrective of ensuring schools are places where they are affirmed and supported - where their correct pronouns and names are used as a matter of course. There is significant evidence that affirming young people in their gender can literally be life-saving. This has been ignored and the risks posed by the bill are simply ignored. The impact on intersex people has also been ignored.

Bafflingly the main chapters in this report are "gender fluidity" and "parental primary", the two issues the supporters of the bill referred to, but which don't reflect the range of matters raised in the submissions or evidence. If this Committee continues to hold inquiries where the bulk of the submissions and evidence is not reflected in the report it will make a mockery of the committee system in the NSW Parliament. Attempting to write out the opposing position highlights the weakness of their own position.

²⁷⁵ page 1 Catholic Education Diocese of Parramatta submission 32

The focus on ‘gender fluidity’ as a concept to be debated hides the simple truth that transgender young people exist in schools in NSW. It is unclear what a prohibition on teacher ‘gender fluidity’ would mean but witness testimony in support of the bill suggests the intention is to create policy where teachers and students are not able to discuss or recognise transgender experience. This is deeply harmful and damaging.

The inquiry highlighted the need for more resources and support for families and teachers to enable them to assist trans and gender diverse young people. Rather than the proposed limitations in the bill, submissions argued that schools should focus on creating safe, respectful and inclusive schools with adequate teaching resources²⁷⁶. This is the actual need that wasting time on inquiries like this gets in the way of.

When opponents of this bill gave evidence to the committee, they spoke of transgender people they knew and loved, trans and gender diverse kids who were looking for support and acceptance, and teachers working to make schools places where everyone was safe and accepted so they could learn. They will not find their evidence fairly reflected in this report. The educators and parents who rejected the attempt to pit parents and schools against each other are not fairly represented either. These submissions were so powerful and we worked hard to have them better reflected in the report, but the right-wing majority on this committee overruled this.

To the young transgender people who have had the misfortune to be exposed to this bill and the inquiry, I want to assure you that you are not alone. The Greens NSW join with all of those who will fight against this bill. I also recognise Labor member of this committee Anthony D’Adam as a solid ally of the trans community. In Parliament or in the streets, we will stand with you and work to defeat this bill and any like it.

The bill is almost certainly in breach of international and national legal obligations. It sets up a scheme that is utterly unworkable. For instance it requires teaching to be both non-ideological and also not inconsistent with the values of the parents, it’s unclear how such a thing is possible. It would lead to absurd outcomes like school sports being more restrictive than the Olympics. It is an attack on the teaching profession and on thousands of young people and families working to make schools safer, better places. It should be consigned to the dustbin of history as the last throes of a transphobic right-wing politics that has no place in our society.

²⁷⁶ Western Sydney community forum submission 65, page 6

