

## **Sex And Gender Education's (SAGE, Australia) Response to The Education Legislation Amendment (Parental Rights) Bill 2020 introduced into NSW's Upper House By Mark Latham on 5 August 2020.**

Long title: An Act to amend the Education Act 1990, the Education Standards Authority Act 2013 and the Teacher Accreditation Act 2004 to provide that schools must recognise that parents are primarily responsible for the development and formation of moral and ethical standards and social and political values in their children, including an understanding of personal identity and questions of gender and sexuality and to prohibit schools, teachers, and training courses from teaching gender fluidity, and for other purposes

SAGE's response is submitted to the parliamentary committee to discuss the bill, NSW Premier Gladys Berejiklian, and all NSW State politicians and parties, August, 2020

SAGE campaigns for the rights and respectful dignity of sex and/or gender diverse (SGD) groups of people in Australia on the issues affecting their everyday lives, and distributes information relating to the quality of their lives. Sex and/or gender diverse people are made up from many differing groups including people who are intersex, transexed, transsexual, transgendered, androgynous, without sex and gender identity, cross dressers and people with sex and gender culturally-specific differences.

They are people who experience variations in physical presentation and social behaviour that is other than stereotypically male or female. Each group may have its own physical, psychological, social, legal and political issues that may not necessarily relate to any of the other groups. SAGE has been in existence since 2001 and has contributed to several changes in law and policy in Australia that benefit SGD groups of people.

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### **Review**

The bill seeks to ostracise, exclude, repress, marginalise, persecute and exclude those who are sex and/or gender diverse within education, whether they are students, teachers or even support staff. Its action are clearly driven by intersexphobia, transphobia and fundamentalist extremism that seeks to promote creationist ideology and the denial of human rights to those who are from

SGD groups. It implies that being from an SGD group is somehow improper, not legitimate and is vilification.

Carpenter (2016) teaches us that intersex people are frequently marginalised by medicine and society attempting to eradicate their intersex reality. This oppression and attempt to ‘normalise’ them, forcing them into unrealistic heteronormative bodies and lives, often leads to high levels of depression and suicidal thoughts far above the national average due to enforced involuntary medical treatment and oppression.

The Trans Pathways study (2017) surveyed 859 participants asking questions about the experiences of trans and gender diverse young people, including feedback from 194 parents and caregivers. Those young people found it difficult to access education at times due to prejudice and exclusion. Three out of every four young trans youth were found to experience anxiety and depression due to their circumstances. Suicidal thoughts could be up to ten times the national average largely due to lack of adequate medical and mental health services and social and educational exclusion.

Many young people from sex and/or gender diverse groups drop out of school and higher education due to bullying, lack of support by educational institutions, lack of facilities for their special needs and persecution from extremists who refuse to acknowledge them so they feel isolated and alone. These are the very circumstances this bill seeks to install in education.

The Federal Health Minister Greg Hunt categorically declared that there is no need for an enquiry into the medical, psychological and counselling treatments that young trans people received (Tomazin, 2020). This came after the right-wing transphobic lobby demanded a review of the treatment of young trans children, stating it was immoral. The outcome of Hunt’s consideration, however, was that the Australian Medical Association suggested that sex and gender diverse children needed a great availability of transition care and acceptance.

The New South Wales Teachers Federation (2020) has clearly stated for several years: “The Federation is committed to protecting the industrial, professional and civil rights of its gay, lesbian, bisexual, transgender and intersex (GLBTI) members as well as the rights of all GLBTI people.” It supports the right of pupils to be treated equally when they come from sex and/or gender diverse groups. It also supports the rights of children who are from any of the SGD groups to be given the opportunity of an education, unimpeded by extremist and religious dogma, bullying and oppression that may restrict them presenting at school, college or university as the sex and gender that reflects their true identity.

The Australian Medical Associations (2020) comments: “Within healthcare settings, gender-normative language and assumptions can play a powerful role in delegitimising people’s own designations of their gender and bodies. Intersex people have reported being pressured into

‘normalising’ procedures to remove gonads and other tissue, based on limited data and inflated risk assessments.”

Omitting the existence of sex and/or gender diverse people from education and educational material marginalises their access to healthcare both in the present time and future. When what you are physically and socially is framed as ‘verboten’ within education then you are more reluctant to seek medical help throughout life, suffering a lower quality of life, with a high susceptibility to depression and a lower life expectancy.

“A public act that threatens or incites violence towards a group of people on the basis of race, religious belief or affiliation, sexual orientation, gender identity, intersex status or HIV/AIDS status is a criminal offence that should be referred to the police” (New South Wales Government, 2020)

Transgender vilification is against the law in NSW. The Education Legislation Amendment (Parental Rights) Bill 2020 is a public act that could incite hatred, serious contempt or ridicule towards transgender people. This includes education, as the omission of sex and/or gender diverse children and people from education is an act of violence in exactly the same way as the exclusion of the First Nation’s People.

The Australian Psychological Society (2020) has stated, “It is important to remember that being transgender or gender diverse is not a mental health issue. However, mental health issues may arise for TGD children due to societal and cultural ideas about gender. Children can feel confused, scared, marginalised and sad, and often experience a lack of support.”

“On 9 December 2017, the right to marry in Australia was no longer determined by sex or gender.” (Australian Government 2020)

During the debate around Marriage Equality the national plebiscite clearly indicated the Australian public supported the right of sex and/or gender diverse people being able to get married in all their forms. So the majority of the Australian public have no problems with sex and/or gender diverse groups of people.

The Australian Society of Sex Educators, Researchers and Therapists (ASSERT NSW, 2020) stated: “ASSERT is especially concerned that Australia should recognise sex, gender and sexuality diversity, legally and within our general society. We seek to prohibit discrimination against people who are not strictly heteronormative. We insist that sex education should include information around all forms of sex, gender and sexuality diversity, informing and fully educating the Australian public around a scientifically informed sex education criteria.”

Medicine, biologists, physiologists and sexologists have all clearly scientifically demonstrated that human beings in the womb and after birth develop on a scale from male to female with a percentage of the population falling somewhere in between; this is natural biological occurrence. Anthropologists, behavioralists, sociologists and sexologists have further recorded that gender diversity within populations through time and across the world is a repeated social phenomenon, not a sign of deviancy.

The Australian Sex Discrimination Act (2020) states:

“Under the *Sex Discrimination Act 1984* (Cth) a person discriminates against another person on the ground of their marital or relationship status if the discrimination occurs by reason of:

- their marital or relationship status
- a characteristic that applies generally to persons with that marital or relationship status, or
- a characteristic that is generally suggested to apply to persons of that marital or relationship status.<sup>[1]</sup>

Marital or relationship status means the condition of being:

- single
- married
- married but living separately and apart from one’s spouse
- divorced
- widowed, or” (Fair Work Commission Government, 2020)

The proposed bill will contravene the SDA. People can get married at 16 years of age which means school pupils can get married and they could be discriminated at school for having married into a relationship that is other than heteronormative.

Furthermore, teachers or support staff who are married or in relationships that are other than heteronormative can be discriminated against because of their marital status, which again contravenes the SDA.

The Australian Government Guidelines on the Recognition of Sex and Gender (2013) state that:

“For the purposes of these Guidelines, sex refers to the chromosomal, gonadal and anatomical characteristics associated with biological sex. Individuals may have a range of circumstances or undergo a variety of treatments that make it difficult to define a true biological sex.”

It is clear the Australian Government’s position is that in some members of the population sex cannot be categorically classified as either male or female due to intersex characteristics so they

should not be discriminated against because of that experience. This includes all government-funded institution such as schools, colleges, and universities.

There are also people, including children, whose gender identities are neither male nor female, nor a variation of male or female and feel that is other than stereotypical. They may possess a passport that identifies them as X not M or F. It is also the government's policy that these people should not be discriminated against.

## **Conclusion**

Children have a legal right to a broad spectrum of scientifically-based education in both biological diversity and social gender diverse presentation which includes the existence and reality of sex and/or gender diverse groups that make up 1-2% of the population. Such a broad-spectrum education is a human right to prepare pupils them for their roles in Australian society. SGD groups are around the same percentage as people who have red hair and we must ask ourselves: Should we ban ginger-haired children from school because they are not the majority?

Children in education should not be afraid to go to school or higher education for fear of persecution by extremists and religious zealots. Australia is a country that espouses that it offers equal opportunity for all, regardless of race, colour, sex or gender. That equal opportunity should also include teaching staff and support staff. Australia has no official religion that can or should be enforced by law. People who have no religion or extremist beliefs that differ from the Adam and Eve creationists should not be excluded from society, including education

It is clear that the aim of this bill is to install extremism and radical religious prejudice and discrimination against sex and/or gender diverse groups within our education system under the pretence of claiming the parental right to determine their children's education. It is a quest for extremist, right-wing and religious dominance via the back door. Australia a secular society where people are not only entitled to their own beliefs and philosophies but also entitled not to be forced to live by the extremist beliefs that corrupt our education system.

Religious and extremist beliefs are private personal beliefs and in an equitable and secular society, like Australia, should not be used to inform education. Parents who have extremist and religious views that are violently diametrically opposed to a scientifically-informed sex education curriculum already have the right to educate their children at home but should not have the right to impose those views within the education system. Children have a right to an evidence-informed education teaching them about sex and gender diversity, and to deny them this because of extremist beliefs is nothing less than child abuse.

We urge all NSW politicians and political parties to be on the right side of human rights history and strike this bill down at the earliest opportunity.

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