



17 November 2020

The Hon Gabrielle Upton MP
Chair
Joint Select Committee on the Anti-Discrimination Amendment
(Religious Freedoms and Equality) Bill 2020
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

SUBJECT: Transcript corrections and response to questions on notice

Dear Chair,

Thank you for the opportunity appear before the Joint Select Committee on the Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020 at the 5 November 2020 public hearing. I have noted some minor corrections to the draft transcript and have marked these in blue for your information (see attachment).

In response to the two questions taken on notice, please see the responses below;

Question (1): from The Hon SAM FARRAWAY re parents' right to choose a faith-based school or the option to go to a government school.

Response:

The NSW independent sector provides parents with a wide choice of school options. This choice is fundamental in providing parents with the opportunity to exercise their rights to decide on the most appropriate educational setting for their child. In NSW, independent faith-based schools provide schooling for approximately 90% of the sector's 209,000 students. Many parents choose to enrol their children in faith-based schools because the schools' religious beliefs and values align with their own. Schools have been established by parents to serve the needs of a particular faith community. Two-thirds of schools in NSW are non-faith government schools and approximately 10% of NSW independent schools are non faith based. These are part of the diverse schooling options available to NSW parents.

While current exemptions in the Anti-Discrimination Act do not prevent non government schools including religion as one criterion for student enrolment, this is not used as widely as many seem to assume. In practice, with rare exceptions, independent schools enrol students from all faiths and no faith.

All schools must set enrolment policies. For many faith-based schools, religion may be just one factor when deciding on enrolments. Other factors may include student academic merit, financial hardship, family preservation factors (sibling preferencing), waitlist position, alumni relationship, employment (preferencing children of school staff), compassionate grounds or other special circumstances. AISNSW strongly supports the right of schools having religion as one option in setting enrolment policy.

Question (2): from Ms JENNY LEONG re "whether or not you support the idea of organisations being included as part of the protections offered in this bill, and if you then support the idea that other protected attributes, as set out in the Anti-Discrimination Act, that have associated organisations would have similar protections around being able to discriminate?"

Response:

Whether or not all religious ethos organisations should be included as part of the protections offered in this bill is not something AISNSW can comment on. We represent NSW Independent Schools, which is a diverse sector of nearly 500 schools and campuses, educating 209,000 students and accounting for 17% of total NSW school enrolments.

In NSW, independent faith-based schools provide schooling for approximately 90% of the sector's students. These include schools of Christian denominations, Anglican, Catholic, Greek Orthodox, Lutheran, Presbyterian, Seventh-day Adventist and Uniting Church, Christian, Islamic and Jewish schools. Other independent schools promote a particular educational philosophy such as Montessori and Rudolf Steiner schools, or they educate specific cohorts of students; Trade schools, Community schools, including in Aboriginal communities, Boarding schools and schools that specialise in meeting the needs of students with disabilities and students at risk.

AISNSW's support for this bill relates to clause 22M, so far as it allows independent faith based schools (as religious ethos organisations) to give preference to persons of the same religion for the purposes of student enrolment and staff employment.

Independent schools are already able to preference staff who will value and support their ethos - or at least won't publicly undermine it - under exemptions in the current Anti-Discrimination Act. In practice, independent faith-based schools, with rare exceptions, employ staff, including principals, deputy principals and teachers, who aren't members of the school's faith. Ultimately, schools, like all employers, want to select the best person for the job and few schools would reject a good teacher or administrator because they were of a different faith or had no faith. Candidate selection in many workplaces is about who is the 'best fit' and that involves a range of factors, not only qualifications and experience, but also whether the person's philosophy and values align with those of the organisation. Legislation should not limit the freedom of an independent school to select the most appropriate employee for that school. AISNSW supports the rights of all independent schools to preference qualified staff who will support the school's ethos and values.

AISNSW supports the rights of independent schools to set and enforce codes of acceptable behaviour that their employees and students agree to abide by, including any antibullying and harassment policies, noting that such policies and codes of behaviour may extend beyond school grounds and school hours and include social media. AISNSW would be concerned by any provision in this Bill that would restrict the ability of a school to set and enforce standards of employee conduct or student conduct designed to protect others from harm. It is not clear that the Bill would threaten the ability of an employer or school to set and enforce standards of conduct or limit its ability to protect its students beyond the school gates, but if it did do this then we would not support it.

Overlapping rights occur in a pluralist, multicultural, multi-faith society and it's a constant balancing act to ensure everybody's rights are protected. We are fortunate in Australia to have a wide range of faith and non-faith based schools – so families and teachers have ample opportunity to choose a school that reflects their values. For this reason, AISNSW is comfortable supporting the rights of faith-based schools to preference enrolment and employment of those who share the school's faith or non-believers who will not seek to undermine its ethos and values.

I hope this information will assist the committee in its inquiry.

Yours sincerely



Dr Geoff Newcombe AM
Chief Executive