



New South Wales

Education Legislation Amendment (Parental Rights) Bill 2020

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Education Act 1990* (the *principal Act*) as follows—

- (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;
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- (h) to require the NSW Education Standards Authority to monitor the compliance by government schools with the requirements to not teach gender fluidity and to recognise parental primacy in relation to core values;
- (i) to provide for a review after two years of the compliance of schools with these requirements and for that review to be tabled in both Houses of the NSW Parliament.

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

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

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Education Act 1990 No 8

Schedule 1[1] adds definitions of “gender fluidity” and “matters of parental primacy”, which are those core values such as moral and ethical standards, political and social values, and matters of personal wellbeing and identity which parents are primarily responsible for teaching and forming in their children.

Schedule 1[2] amends the principles of the Act to clarify that the principle that parents are primarily responsible for the education of their child includes the responsibility for the teaching of matters of parental primacy.

Schedule 1[3] adds to the objects of the Act an express recognition that the education of children must be consistent with the principles of the Act, which includes the principle that parents are primarily responsible for teaching in matters of parental primacy.

Schedule 1[4] adds further objects to the Act which provide that provision of education must be consistent with parental convictions in relation to matters of parental primacy and which reflects the fundamental human rights of parents as set out in Article 18(d) of the International Covenant on Civil and Political Rights.

Schedule 1[5] adds wording to establish that courses of study for a Higher School Certificate must foster physical and spiritual development consistently with parental convictions in relation to matters of parental primacy.

Schedule 1[6] adds a provision that prohibits the teaching of gender fluidity in any courses of study for the curriculum for children in primary education (Kindergarten through to Year 6).

Schedule 1[7] adds a provision that prohibits the teaching of gender fluidity in any courses of study for the curriculum for children in secondary education (Year 7 to Year 10).

Schedule 1[8] adds a prohibition that prohibits the teaching of gender fluidity in course of study in the curriculum for higher school certificate candidates (Year 11 and Year 12).

Schedule 1[9] adds provisions which requires the NSW Education Standards Authority to indicate those parts of any syllabus which includes content relating to matters of parental primacy and which prohibit the development or endorsement of any syllabus for a school which teaches gender fluidity.

Schedule 1[10] inserts sections into the Act which:

- (a) prohibit the teaching of gender fluidity in all schools;
- (b) require the teaching in government schools to be non-ideological;
- (c) extends these requirements to all staff at government schools,
- (d) allows parents to object to teaching on matters of parental primacy, and
- (e) requires consultation by schools with parents on matters of parental primacy.

Schedule 1[11] provides that the function of the NSW Education Standards Authority to provide advice and assistance to students and employers on the nature of courses of study is extended to include an obligation to provide advice and assistance to parents.

Schedule 1[12] adds a new provision that gives the NSW Education Standards Authority an additional function of preparing and making available to schools such resources as will be necessary to give parents key information about matters of parental primacy that are part of the syllabus.

Schedule 1[13] adds a new provision to give the NSW Education Standards Authority the power to monitor and provide advice to the Minister and the Secretary on the compliance of government schools with the prohibition on the teaching of gender fluidity and with the obligation to recognise that parents are primarily responsible for their children's education in relation to matters of parental primacy. Where there is non-compliance, the Authority may recommend taking specific action by the Department and the Secretary must advise the Authority of any action that it takes to deal with the non-compliance.

Schedule 1[14] provides that the requirement of government schools to provide non-sectarian and secular instruction includes a requirement not to teach gender fluidity.

Schedule 1[15] inserts a requirement that the Minister is to review compliance by schools with the prohibition on the teaching of gender fluidity and the requirements to recognise parental responsibility for education of children in matters of parental primacy.

Schedule 2 Amendment of Education Standards Authority Act 2013 No 89

Schedule 2[1] adds definitions of "gender fluidity" and "matters of parental primacy."

Schedule 2[2] adds a provision that provides that a principal objective of the NSW Education Standards Authority is to ensure that the school curriculum, forms of assessment, regulatory standards for schools and teaching quality and professional standards are developed, applied and monitored to ensure that parental responsibility is recognised for education of children in matters of parental primacy and to ensure that gender fluidity is not taught in schools.

Schedule 3 Teacher Accreditation Act 2004 No 65

Schedule 3[1] adds definitions of "gender fluidity" and "matters of parental primacy".

Schedule 3[2] adds a provision that requires professional teaching standards that are developed by the NSW Education Standards Authority to include a requirement that all approved courses,

teacher education courses, programs and professional development course must recognise that parents are responsible for the education of children in matters of parental primacy and that such courses must not teach gender fluidity. The professional teaching standards must also make it a condition of accreditation of teachers and other qualified persons in schools that they must recognise that parents are responsible for education of children in matters of parental primacy and that they must not teach gender fluidity in schools.

Schedule 3[3] provides that the Authority must revoke accreditation for any person who develops courses or any teacher who teaches in a way that teaches gender fluidity or fails to recognise the responsibility for parents for education in matters of parental primacy.



New South Wales

Education Legislation Amendment (Parental Rights) Bill 2020

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New South Wales

Education Legislation Amendment (Parental Rights) Bill 2020

No. , 2020

A Bill for

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.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Education Legislation Amendment (Parental Rights) Bill 2020*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Education Act 1990 No 8

[1] Section 3(1) Definitions

Insert after the definition of *government school*—

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.

Insert after the definition of *inspector*—

matters of parental primacy means, 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.

[2] Section 4(b)

Insert “which includes the responsibility of parents for the teaching and formation of their children in matters of parental primacy” after “the child's parents” in section 4(b).

[3] Section 6(1)(a1)

Insert a new section 6(1)(a1) after section 6(1)—

(a1) provision of an education that is consistent with the principles in section 4,

[4] Section 6(1)(o)-(p)

Omit “.” from the end of section 6(n) and insert—

- ,
- (o) provision of an education that is consistent with the moral and ethical standards and the political and social values of parents of students,
 - (p) provision of an education that reflects the rights of parents that are codified in Article 18(4) the International Covenant on Civil and Political Rights.

Note. Article 18(4) of the International Covenant on Civil and Political Rights states “*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.*”

[5] Section 6(1A)(e)

Insert “in a manner consistent with the convictions of parents of students in relation to matters of parental primacy” after “physical and spiritual development of students” in section 6(1A)(e).

[6] Section 8(1)(e1)

Insert after section 8(1)(e)—

(e1) courses of study must not include any teaching of gender fluidity,

[7] Section 10(1)(d1)

Insert after section 10(1)(d)—

- (d1) courses of study must not include any teaching of gender fluidity,

[8] Section 12(1)(e)

Omit “.” from the end of section 12(1)(d) and insert—

- (e) those courses of study must not include the teaching of gender fluidity.

[9] Section 14(5)-(6)

Insert after section 14(4)—

- (5) Any syllabus developed or endorsed by the Authority for a particular course of study is to indicate those parts of the syllabus that include content relating to matters of parental primacy.
- (6) No syllabus developed or endorsed by the Authority for a particular course of study may include the teaching of gender fluidity.

[10] Sections 17A-17E

Insert after section 17—

17A Teaching of gender fluidity

The education in government and non-government schools must not include the teaching of gender fluidity.

17B Teaching to be non-ideological

In government schools, the education is to consist of strictly non-ideological instruction in matters of parental primacy. 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.

17C Application to teaching, instruction, counselling and advice

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, instruction, 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.

17D Objection to teaching on matters of parental primacy

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.

17E Consultation on matters of parental primacy

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.

[11] Section 20A(2)(m)

Insert "parents," after "to provide advice and assistance to" in section 20A(2)(m).

[12] Section 20A(2)(m1)

Insert after section 20A(2)(m)—

- (m1) to prepare resources for parents which set out the matters of parental primacy that are part of the syllabus and make available to schools.

[13] Section 27B

Insert after section 27A—

27B Authority to monitor compliance with matters of parental primacy requirements

- (1) The Authority is to monitor, and provide advice to the Minister and the Secretary on, the compliance by government schools with the principles in section 4, the objects in section 6 and the obligations in sections 17A to 17E (inclusive).
- (2) If the Authority is of the opinion that a government school is not complying with the relevant requirements, the Authority is to notify the Secretary in writing of the non-compliance. Any such notice may recommend the taking of specific action in relation to the school.
- (3) The Secretary is, if notified by the Authority that a government school is not complying with the relevant requirements, to advise the Authority of any action taken by the Department in dealing with the non-compliance specified by the Authority in the notice.

- (4) In exercising its functions under this section in relation to government schools, the Authority is to be provided by the Department with such assistance as may reasonably be required.
- (5) A reference in this section to a government school includes a reference to a group (however described) of government schools or to the whole or any part of the government school system.

[14] Section 30 Secular Instruction

Insert “and must not include the teaching of gender fluidity” after “strictly non-sectarian and secular instruction” in section 30.

[15] Section 136

Insert after section 135—

136 Review of compliance with matters of parental primacy obligations

- (1) The Minister is to review the compliance of schools with the requirements of the principles in section 4, the objects in section 6 and the obligations in sections 17A to 17E (inclusive) and any actions that have been taken under section 27B of this Act and any outcomes of those actions.
- (2) The review is to be undertaken as soon as possible after the period of 2 years from the commencement of the *Education Legislation Amendment (Parental Rights) Act 2020*.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 2 years.

Schedule 2 Amendment of Education Standards Authority Act 2013 No 89

[1] Section 3(1) Definitions

Insert after the definition of *function*—

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.

Insert after the definition of *inspector*—

matters of parental primacy means, 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.

[2] Section 11(1)(d)

Omit “.” from section 11(1)(c)(iv) and insert—

- ,
- (d) to ensure that:
- (i) the school curriculum,
 - (ii) forms of assessment,
 - (iii) regulatory standards for schools.
 - (iv) teaching quality and professional standards,
- under the education and teaching legislation are developed, applied and monitored to ensure that school education does not:
- (v) derogate from the primary responsibility of parents in matters of parental primacy; or
 - (vi) include any teaching of gender fluidity.

Schedule 3 Amendment of Teacher Accreditation Act 2004 No 65

[1] Section 3(1) Definitions

Insert after the definition of *function*—

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.

Insert after the definition of *government school*—

matters of parental primacy means, 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.

[2] Section 20(1A)

Insert after s21(1)(g)—

(1A) The professional teaching standards must:

- (a) include a requirement that all approved courses, teacher education courses, programs and professional development courses:
 - (i) recognise that parents are primarily responsible for the education of their children in relation to matters of parental primacy; and
 - (ii) do not include the teaching of gender fluidity, and
- (b) stipulate as a condition of the accreditation of teachers and other qualified persons under this Act that those persons:
 - (i) must recognise that parents are primarily responsible for the development and formation of their children in relation to matters of parental primacy; and
 - (ii) must not teach gender fluidity.

[3] Section 24(2)

Insert after section 24(1)(g)—

- (2) The Authority must revoke the accreditation of any person if the Authority is satisfied that the person has failed to comply with any of the requirements of the professional teaching standards that apply to the person under section 20(1A).