

Submission of Family Planning NSW

Sex Discrimination Amendment (Removing Discrimination Against Students) Bill 2018

January 2019

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Submitted through MyParliament



Family Planning NSW welcomes this opportunity to make a submission in relation to the *Sex Discrimination Amendment (Removing Discrimination Against Students) Bill 2018*.

About us

Family Planning NSW is the state's leading provider of reproductive and sexual health services. Founded in 1926, we are an independent, not-for-profit organisation. Our work is underpinned by evidence from research and a strong commitment to reproductive and sexual health and rights.

Family Planning NSW has a particular interest in the health and rights of young people. We:

- provide training to clinicians around young people and sexuality, as well as a range of other reproductive and sexual health issues affecting young people
- provide training to support teachers to deliver reproductive and sexual health education in line with the curriculum
- carry out translational research in a variety of areas to enhance the reproductive and sexual health outcomes of all young people
- work with young people through targeted services such as the [Condom Credit Card](#) and provide evidence-based information to support young people to make health decisions through our clinical services and through our youth-focused websites www.Frank.org.au, inreallife.org.au and bodytalk.org.au.
- provide a full range of inclusive reproductive and sexual health services across all of our clinics for trans and gender diverse young people including contraception and STI screening.

Recommendations

1. That Parliament pass the amendments contained within the *Sex Discrimination Amendment (Removing Discrimination Against Students) Bill 2018* including:
 - **Limiting the operation of paragraph 37(1)(d) of the *Sex Discrimination Act 1984* to ensure that the exemption does not apply to an act or practice of a body established for religious purposes if:**
 - The act or practice is connected with the provision, by the body, of education; and
 - The act or practice is not connected with the employment of persons to provide that education.
 - **Repeal or amend paragraph 38(3) from the *Sex Discrimination Act 1984* to remove exemptions from the protections against discrimination in section 21 of the Act.**
2. That the Commonwealth Department of Education and Training work with all states and territories to ensure that evidence-based comprehensive sexuality education is consistently taught in all Australian schools.

Discrimination on SDA grounds infringes young people's basic human rights

Discrimination on the basis of any of the grounds enumerated in the *Sex Discrimination Act* – sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, or breastfeeding – unacceptably infringes basic human rights.

These include the rights to equality, non-discrimination, education, and the rights of the child. These rights are contained in the International Convention on Civil and Political Rights, the International Convention on Economic, Social and Cultural Rights and the Convention on the Rights of the Child.

In addition to ensuring that these human rights obligations are met, Australia has committed to meeting Sustainable Development Goal 4 by 2030: to ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.

Discrimination on SDA grounds infringes young people's reproductive and sexual health and rights

In addition to concerns regarding infringement of basic human rights, Family Planning NSW is concerned that laws that permit discrimination against sexually and gender diverse students and pregnant or breastfeeding girls will contribute to stigma and poor health outcomes for these groups. These laws may reduce the likelihood that students will access the reproductive and sexual health information and services that they need, including contraception, STI prevention and screening, and pregnancy-related services. The Guttmacher-Lancet Commission report into sexual and reproductive health and rights notes that:

Stigma, bullying and other forms of discrimination based on sexual orientation and gender identity are key factors undermining health-care access (1).

For these reasons, Family Planning NSW supports the proposed amendments to the *Sex Discrimination Act* (see **Recommendations 1 and 2**).

The sexuality education needs of sexually and gender diverse students are less likely to be met in faith-based schools

The NSW Sexual Health in Schools Project (a collaboration between the NSW Ministry of Health, NSW Department of Education and Family Planning NSW) included a needs assessment of 1,839 high school students attending government, faith-based and independent schools in years 8-12. Fifty of the participating students identified as transgender/gender diverse(2).

In relation to transgender/gender diverse students from all schools, the needs assessment found that:

- 58% were not satisfied with the sexual health education they received
- 70% answered that they do not receive information at school on gender identity, same sex attraction and sexual identity, but would want some.

Students attending faith-based schools were more likely to report lower rates of information about:

- gender identity (16%)

- same sex attraction and sexual identity (15%)
- sexual feelings and desires (14%).

In comparison, twice as many students (25-31%) attending government and independent schools received information from school on those topics. Students from faith-based schools were also less likely to be satisfied with their sexual health education when compared to students from government schools and independent schools.

These findings indicate that sexual and gender diverse students attending faith-based schools are at a particular disadvantage in relation to receiving information about their reproductive and sexual health compared to other students. Continuing to allow faith-based schools to discriminate against students on the grounds enumerated in the *Sex Discrimination Act* would further entrench the disadvantage and discrimination these students face.

Removing discrimination from legislation is necessary but not sufficient in addressing students' reproductive and sexual health and rights

A recent report published by UNESCO found that:

Comprehensive Sexuality Education (CSE) leads to improved sexual and reproductive health, resulting in the reduction of sexually transmitted infections (STIs), HIV, and unintended pregnancy. It not only promotes gender equality and equitable social norms, but has a positive impact on safer sexual behaviours, delaying sexual debut and increasing condom use (3).

Australia has committed to meeting Sustainable Development Goal 3.7:

By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes.

The current national approach to sexuality education is neither comprehensive nor consistent across states and territories in Australia. Family Planning NSW supports the Australian Association for Adolescent Health's recommendations on comprehensive sexuality education including that 'all Australian schools ...provide comprehensive sexuality education to their students that aligns with current international best practice guidelines' and that staff delivering this content should be well-trained and well-supported (4).

As such, in addition to passing this Bill, Family Planning NSW recommends that the Commonwealth Department of Education and Training work with all states and territories to ensure that evidence-based comprehensive sexuality education is taught consistently in all Australian schools (see **Recommendation 3**).

Reference list

1. Starrs AM, Ezeh AC, Barker G, Basu A, Bertrand JT, Blum R, et al. Accelerate progress—sexual and reproductive health and rights for all: report of the Guttmacher–Lancet Commission. The Lancet Commissions; 2018.
2. Roth, Caecilia; Concepcion, Kristine; Betes S. Sexual Health in Schools: Student Needs Assessment in NSW. 2018. This report is embargoed pending peer review. Please contact Family Planning NSW for a confidential copy of this report
3. Global Review finds Comprehensive Sexuality Education key to gender equality and reproductive health [Internet]. Available from: <https://en.unesco.org/news/global-review-finds-comprehensive-sexuality-education-key-gender-equality-and-reproductive>
4. Health AA for A. Comprehensive Sexuality Education: Position Paper [Internet]. 2018. Available from: http://www.aaah.org.au/data/Position_Papers/AAAH_Ltd_-_CSE_Position_Paper_Final_31Oct2018.pdf