



Association For Reformed Political Action (ARPA)

Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Via [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

**Submission: Sex Discrimination Amendment (Removing Discrimination Against Students) Bill 2018**

Dear Senators,

The Association for Reformed Political Action is a non-partisan Christian organisation affiliated with the Free Reformed Churches of Australia, a denomination of approximately 4000 members spread across 16 congregations, 14 of which are in Western Australia and two in Tasmania. The overwhelming majority of our members send their children to Christian schools, many of which they themselves have established over the last sixty years.

We are writing to express our concerns about possible changes to aspects of the *Sex Discrimination Act 1984* as proposed in the *Sex Discrimination Amendment (Removing Discrimination Against Students) Bill 2018*.

Independent schools, including Christian schools, allow parents to have their children instructed in a manner that reinforces the moral and religious beliefs students are taught at home, while at the same time meeting official curriculum requirements. In our experience these schools are overwhelmingly positive places, staffed by committed teachers and experiencing high degrees of parent and community engagement. Staff at these schools often go above and beyond the call of duty to care for the emotional wellbeing of the students in their care and work professionally to integrate curriculum requirements with the schools' ethos.

Recently there has been significant public interest in various exemptions to the *Sex Discrimination Act 1984*, including – as under examination in this Bill – the ability of bodies established for religious purposes to discriminate against students based on sexual orientation, gender identity or intersex-status.

We lament that much of the furore over these exemptions is in response to anticipated or hypothetical events rather than any actual occurrences of unjust discrimination. There is no crisis of student expulsions occurring on the basis of sexuality, and we urge Parliament to address this matter in a measured and cautious manner so that legislation is not introduced which causes more disadvantage than it seeks to correct.

Unfortunately, there seems to be little appreciation for the reasons why certain exemptions to the *Sex Discrimination Act* were introduced in 2013. Exemptions were introduced, not to facilitate arbitrary discrimination or indiscriminate expulsions, but to allow certain organisations, including educational institutions established for religious purposes, to maintain freedom of religion and belief, particularly with regards to marriage and sexuality, which are matters of incredible importance to religious communities. The exemptions allow them to only discriminate provided it is “in good faith... in order to avoid injury to the religious susceptibilities of adherents to that religion or creed.”<sup>1</sup> The *Sex Discrimination Act* was modified to include these exemptions against a backdrop of newly-created rights in the areas of sexual orientation and gender identity, so that these new rights would not clash with, or come at the expense of, existing rights for freedom of thought, conscience, religion or belief. The way the exemptions are worded in the *Sex Discrimination Act* implies that

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<sup>1</sup> SEX DISCRIMINATION ACT 1984 - SECT 38 Educational institutions established for religious purposes. (n.d.). Retrieved 20 November 2018, from [http://classic.austlii.edu.au/au/legis/cth/consol\\_act/sda1984209/s38.html](http://classic.austlii.edu.au/au/legis/cth/consol_act/sda1984209/s38.html)

there are already limitations on them and that people have always had recourse to challenge discrimination which they believe was not done “in good faith.”

As Hon Mark Dreyfus QC MP said in his explanatory memorandum when section 38(3) of the *Sex Discrimination Act* was amended in 2013, “... otherwise discriminatory conduct on the basis of sexual orientation and gender identity *will not be prohibited for educational institutions established for religious purpose*. Consequently, the Bill *will not alter the right to freedom of thought, conscience, and religion or belief in respect to the new grounds of sexual orientation and gender identity*” (emphasis added).

Removing the ability of religious schools to enrol students (and employ staff) who share the organisations’ religious beliefs and ethos, including beliefs about sexuality, marriage and the family, strikes at the very heart of a religious school’s ability to operate. With regards to the matter of sexual relationships, we believe the Bible clearly teaches that they are only appropriate between one man and one woman who are married to each other. This is a long-established Christian teaching, and the fact that Australian law also makes other relationships legal (including de-facto relationships, same-sex marriages and even extra-marital affairs) does not force Australians to accept these other relationships as moral, nor does it mean they must advocate in favour of them should doing so go against their moral or religious beliefs.

Differences in belief about matters associated with sexuality and relationships should be handled just like other competing beliefs which co-exist in Australian society. There are many beliefs, some of which are religiously based and even mutually exclusive, which already co-exist without causing offence to either party and without mandating one party to abide by the beliefs of the other. Australians hold different beliefs about matters including God, morality, divorce, the observance of rest days and the consumption of certain foods or drinks. People are also free to join a host of organisations which reflect and advocate varying moral and political views, some of which are directly opposed to each other. Parliament rightly does not arbitrate between all of these but provides a safe environment in which each can coexist.

Finally, we remind Senators that the education of children is primarily a parental responsibility and that parents, not the state, have the right and responsibility to decide what moral and religious values will be taught to their children. This reality is reflected in Article 13 of The International Covenant on Economic, Social and Cultural Rights, to which Australia is a signatory. Article 13 specifically states that parents may establish their own schools to have children instructed in accordance with their own religious and moral convictions:

*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 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.<sup>2</sup>*

In conclusion, we believe that the *Sex Discrimination Act* is not being used by religious schools to target people because of their sexual orientation and that there is no justification for changes to this Act. The current wording of the *Sex Discrimination Act* allows schools to take action, in good faith, should situations arise where students or staff members seek to undermine the organisation’s beliefs. As such, the legislation in its current form maintains the delicate and appropriate balance between the right to religious beliefs on the one hand and freedom from unjust discrimination on the other. We ask you not to recommend any changes to this Act.

Laurence Van der Plas  
ARPA Australia - Research Officer

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<sup>2</sup> Australian Human Rights Commission: “ICESR Article 13: Right to Education,” May 1, 2013. <https://www.humanrights.gov.au/right-education> [Accessed 13 August 2018].