

ACHEA

Australian Christian Higher Education Alliance

COMMENTS FOR THE AUSTRALIAN LAW
REFORM COMMISSION

Inquiry into the Framework of Religious Exemptions in
Anti-Discrimination Legislation

10TH MAY 2019

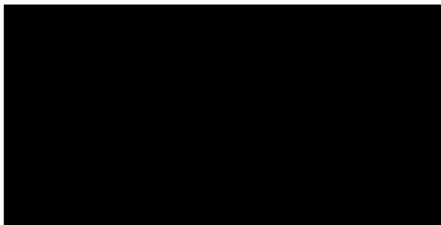
1. ACHEA welcomes the opportunity to provide a comment on the Australian Law Reform Commission (ARLC) scope and terms of reference for the inquiry into the Frameworks of Religious Exemptions in Anti-discrimination legislation.
2. ACHEA's main concern regarding the scope and discussion paper is a recognition of faith-based higher education sector. Although **faith-based higher education (FBHE)** is included as *'educational institutions conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed'*, so much of the discussion up to this point appears to have focused solely on primary and secondary schools. FBHE however is a rapidly growing education market in Australia and special emphasis should be given so as not to overlook it in the deliberations. In addition, there are unique requirements around religious freedom for higher education that are not as applicable in the primary and secondary sector yet are vital for the functioning on FBHE institutions.
3. The consultation of the inquiry should therefore consider the unique characteristics of FBHE which are often overlooked. Although the modern exposure of many Australians in universities is of a more detached retail and corporate model in obtaining a diploma or degree, religious tertiary institutions can still be significantly different from secular ones. Some of the differences include:
 - a. a greater emphasis on the formation of relationships between executives, academics, staff and students;
 - b. an underlying religious worldview which impacts the teaching focus of all academic disciplines;
 - c. more involved vocational support and mentoring with greater focus on the relevance of character, service and faith; and
 - d. increased focus on community service and learning programs, as well as more developed civic networks (e.g. churches, mosques, temples).
4. It should also be recognised that there are significant situational differences between primary and secondary education institutions and higher education institutions (religious or otherwise). Some of these differences require consideration as to the legal impact and protections such as:
 - a. the voluntary nature of adult education and their freedom to choose an institution which reflects their values and beliefs;
 - b. the provision of adult residential arrangements based on sex and relational status;

- c. greater opportunity for association through student unions, clubs, religious groups and activist organisations; and
 - d. the need for greater freedom of thought and expression at a tertiary level to explore a more complex range of topics.

- 5. ACHEA also holds that any discussion paper should also have regard to various international cases where the freedoms of FBHE institutions have been affected. Examples include:
 - a. **Trinity Western University v Law Society of Upper Canada**
 - b. **Gordon College v New England Association of Schools and Colleges (NEASC)**

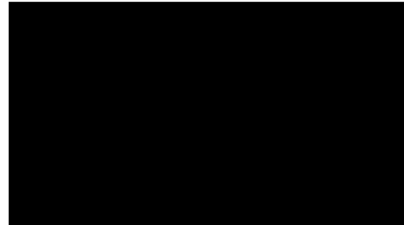
- 6. These cases demonstrate the unique character of such institutions and the consideration of the legal implications of the differences when compared to primary and secondary schools and secular higher education.

- 7. The Australian Christian Higher Education Alliance (ACHEA) appreciates the opportunity to have input into the ALRC inquiry. ACHEA would welcome the opportunity to further expand on its views.



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President/CEO of Tabor College



Nick Jensen

Political Liaison for ACHEA and
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