

a) Introduction

1. In a speech in 2022, Opposition Leader Anthony Albanese said:

“Education is fundamental and essential to the jobs, productivity and prosperity of the future. And education is the biggest and most powerful weapon we have against disadvantage. Labor sees education as about creating opportunity.”¹

2. ANGLICAN YOUTH AND EDUCATION DIOCESE OF SYDNEY (Anglican Youthworks) concurs with the Prime Minister and welcomes this opportunity to comment on the Federal Government’s *Religious Educational Institutions and Anti-Discrimination Laws* Consultation.

b) About Anglican Youthworks

3. Anglican Youthworks has been involved in the education of young Australians since 1856 and currently employs over 140 church-attending Christians. Anglican Youthworks produces school curricula resources used by approximately 350,000 government and independent school students, and conducts school camps for over 16,000 students each year. Our goods and services are preferred by our customers because of the faith perspective of Anglican Youthworks’ staff.

c) General Comments

On The Value of People

4. As Christians we believe:
 - a) all people have been created by God and therefore have an inherent dignity;
 - b) Jesus Christ died for all people and therefore everyone has an inherent value.

¹ National Press Club Address, January 25th, 2022. Accessed at: <https://anthonyalbanese.com.au/media-centre/australias-best-days-are-ahead>

On The Impact of Religion on Lives

5. As people of faith we believe that a religion is not merely an intellectual exercise, but one that impacts all of life. In the New Testament's Epistle of James it is written:

Do not merely listen to the Word, and so deceive yourselves. Do what it says.²

6. This view is shared by virtually all faiths, Christian and otherwise.
7. A person may be knowledgeable about a religion, respectful of a religion or culturally impacted by a religion. None of these make that person an *adherent* of a religion.
8. This is one reason many religions have some public ceremony to recognise an individual as an adherent. In the broad Christian tradition this is Baptism or Confirmation of Baptism with First Communion.

On The Role of Parents in Their Child's Education

9. Of all the people involved in the education of a child – teachers and principals, community leaders and religious leaders, friends and relatives – the Government has recognised the special place of parents³. Parents are the only party for whom there is a legislated penalty for failing in their educational responsibilities.⁴
10. We believe this special place for parents is consistent culturally, morally, and ethically. It passes the so-called "Pub Test". Parents are expected to have their child's best interests at heart; as a society we agree the education of the child is in their best interest and therefore failure to educate a child should have consequences.
11. Moreover, parents are best placed to advocate for the education of their child, both in choice of schools and choice of subjects. This choice includes the choice between a State School and Independent School. This choice includes the selection in State Schools of Special Religious Education or Special Education in Ethics, in jurisdictions where those options are present.

² James 4:22, quoted from The Holy Bible, New International Version

³ In this Submission the use of the term *Parents* includes Guardians and any other party with similar responsibilities over the life of the Child.

⁴ In NSW, s. 23 of *The Education Act (1990)* prescribes a maximum penalty of 25 penalty units (first offence) for failing to enrol a child or sending them to school. This is currently about \$2,650. Similar legislation exists in other jurisdictions.

d) Specific Comments

On The Terms of Reference and this Consultation.

- 12.** There seems to be a disconnect between the Terms of Reference and this Consultation, specifically the third item, being:

...can continue to build a community of faith by giving preference, in good faith, to persons of the same religion as the educational institution in the selection of staff.⁵

This is specifically negated a few pages later in one of the *Examples*:

...a school could require a LGBTQ+ staff member involved in the teaching of religious doctrine or beliefs to teach the school's position on those religious doctrines or beliefs, as long as they were able to provide objective information about alternative viewpoints if they wished.⁶

This is the equivalent of allowing a Mathematics teacher presenting $1 + 1$ as equalling 3, because this is their alternative viewpoint.

- 13.** *Anglican Youthworks* supports over 2,000 Special Religious Education Teachers in NSW State Schools, both volunteer and paid. We seek to recruit staff who share the religious beliefs of Christianity. The Proposals in the Consultation Paper would compel us to accept teachers who may not share or support the religious beliefs of the Church that licenses them, and whose employment can only be terminated where they “actively undermine” the religious ethos of Christianity. This would compromise the ability of parents to make an informed choice in the faith education of their children in State Schools and may well serve to accelerate the drift of students away from government schools into faith-based, independent schools.

On Human Rights.

- 14.** The phrase “*all human rights*” is used six times in the Consultation Paper⁷, including in two of The Principles. There is no list of ‘all human rights’ in the Consultation Paper. This will lead to confusion if different parties have different lists they consider ‘all human rights’ and removes meaning from statements such as: “all human rights have been taken seriously”⁸
- 15.** The section entitled “*Relevant human rights*”⁹ contains a list of human rights that are acknowledged to neither be comprehensive generally or comprehensive with respect to this Consultation. This perpetuates the confusion noted in the above paragraph and removes meaning from statements in Principle 1 as: “All of the human rights at issue in this Inquiry are important to human dignity”¹⁰.

⁵ Consultation Paper – Religious Educational Institutions and Anti-Discrimination Laws – January 2023, ALRC. Page 5.

⁶ Consultation Paper – Religious Educational Institutions and Anti-Discrimination Laws – January 2023, ALRC. Page 21.

⁷ Consultation Paper – Religious Educational Institutions and Anti-Discrimination Laws – January 2023, ALRC. Pages 7, 9 and 42.

⁸ Consultation Paper – Religious Educational Institutions and Anti-Discrimination Laws – January 2023, ALRC. Page 7.

⁹ Consultation Paper – Religious Educational Institutions and Anti-Discrimination Laws – January 2023, ALRC. Page 10.

¹⁰ Consultation Paper – Religious Educational Institutions and Anti-Discrimination Laws – January 2023, ALRC. Page 9.

On The Principles.

Principle	Response
<p>Principle 1: Human dignity is central to the expression and protection of all human rights. The recognition and protection of human dignity underlies and holds unconditional status in the international human rights framework.</p> <p>All of the human rights at issue in this Inquiry are important to human dignity.</p> <p>Although people may hold differing views about how difficult issues should be resolved, the methods used to resolve them should promote respect.</p>	<p>As Christians we believe:</p> <ul style="list-style-type: none"> • all people have been created by God and therefore have an inherent dignity; • Jesus Christ died for all people and therefore everyone has an inherent value. <p>Whilst we agree the resolution process must always promote respect, we acknowledge there will be occasions where resolution will not be possible</p>
<p>Principle 2: All human rights engaged by this Inquiry are fundamentally important. All human rights are universal, inalienable, indivisible, interdependent, and interrelated. This Inquiry engages with a broad range of human rights. Respect for, and the protection and fulfilment of, each of these rights is fundamentally important.</p>	<p>The rights of children to have their parents make choices for them in regard to both education and religious instruction must be respected.</p>
<p>Principle 3: Human rights should be considered holistically. In managing intersections between human rights, the substance of the rights at issue should be preserved to the maximum degree possible. The broad range of rights relevant to education within religious educational institutions must be considered holistically. International human rights law provides a framework for managing the intersection of these rights. In situations where human rights appear to be in tension, ‘pragmatic elasticity’ is required to produce ‘practical concordance’ of all human rights involved, to the maximum degree possible.</p> <p>Application of a competing or hierarchical lens, or engaging in a balancing act that produces ‘trade-offs’ should be avoided</p>	<p>The rights of children to have their parents make choices for them in regard to both education and religious instruction must be respected.</p> <p><i>The Application of a competing or hierarchical lens, ... ‘trade-offs’ should be avoided cancelled by ‘Proportionate’ language in D2 etc.</i></p>
<p>Principle 4: Education performs a key role in maintaining a pluralist and socially cohesive society. Australian society is diverse, with many different ethnic, racial, religious and social groups all living together. The Alice Springs (Mparntwe) Education</p>	<p>We agree, but note the rights of children to have their parents make choices for them in regard to both education and religious instruction must be respected.</p>

Declaration, agreed on by all Australian Education Ministers in 2019 commits Australian governments to ensuring 'education promotes and contributes to a socially cohesive society that values, respects and appreciates different points of view and cultural, social, linguistic and religious diversity'.	
Principle 5: Students are at the centre of this Inquiry. Students are the direct beneficiaries of education and are owed a duty of care by all institutions that deliver that education. The design of policy that impacts students must place at its heart the best of interests of those students. Parents, carers, and religious educational institutions and their staff, including teachers, perform an important role in supporting the educational and spiritual development, and wellbeing, of students. Staff also deserve safe workplaces and fair conditions of employment.	The paramount duty of care is owed to the children, and parents are in the best position to ensure that duty is best exercised.

On The Propositions.

Propositions	Response
A. Discrimination against students on the grounds of sexual orientation, gender identity, marital or relationships status, or pregnancy	
1. Religious educational institutions should not be allowed to discriminate against students (current or prospective) on the grounds of their sexual orientation, gender identity, marital or relationship status, or pregnancy, or on the grounds that a family member or carer has one of those attributes.	Generally agree
2. Religious educational institutions should be permitted to train religious ministers and members of religious orders, and regulate participation in religious observances or practices, unfettered by sex discrimination laws. Where applicable, religious educational institutions should also continue to benefit from the exception available to charities in relation to the provision of accommodation.	Generally agree.
3. Religious educational institutions should be permitted to teach religious doctrines or beliefs on sex or sexual orientation in a way that accords with their duty of care to students and requirements of the curriculum.	We seek clarification on the <i>duty of care</i> contemplated by this proposition.

Propositions	Response
B Discrimination against staff on the grounds of sex, sexual orientation, gender identity, marital or relationships status, or pregnancy	
1. Religious educational institutions should not be allowed to discriminate against any staff (current or prospective) on the grounds of sex, sexual orientation, gender identity, marital or relationship status, or pregnancy.	Strongly disagree where those grounds are against the basic tenets of the religion.
2. Religious educational institutions should be able to select staff involved in the training of religious ministers and members of religious orders, and regulate participation in religious observances or practices, unfettered by sex discrimination laws. Where applicable, religious educational institutions should also continue to benefit from the exception available to charities in relation to the provision of accommodation.	Strongly agree
3. Religious educational institutions should be able to require staff involved in the teaching of religious doctrine or belief to teach religious doctrine or belief on sex or sexuality as set out by that institution and in accordance with their duty of care to students and staff, and requirements of the curriculum.	Disagree on split between staff <i>involved in the teaching of religious doctrine</i> and, by inference, other staff.

Propositions	Response
C Preferencing staff involved in the teaching, observance, or practice of religion on religious grounds	
1. In relation to selection, appointment, and promotion, religious educational institutions should be able to preference staff based on the staff member's religious belief or activity, where this is justified because:	
> participation of the person in the teaching, observance, or practice of the religion is a genuine requirement of the role;	
> the differential treatment is proportionate to the objective of upholding the religious ethos of the institution; and	
> the criteria for preferencing in relation to religion or belief would not amount to discrimination on another prohibited ground (such as sex, sexual	This third point obliterates anything said in the two above.

orientation, gender identity, marital or relationship status, or pregnancy), if applied to a person with the relevant attribute.	It needs to be removed.
2. The nature and religious ethos of the educational institution should be taken into account in determining whether participation of the person in the teaching, observance, or practice of the religion is a genuine requirement of the role.	<i>Genuine Requirement</i> language removes the decision making capability from school authorities and gives it to another external adjudicator.

Propositions	Response
D Ongoing requirements on all staff to respect the religious ethos of the educational institution	
1. Religious educational institutions should be able to expect all staff to respect their institutional ethos. A religious educational institution should be able to take action to prevent any staff member from actively undermining the institutional ethos of their employer.	Agreed, but made inoperable by the other comments on sexuality.
2. Religious educational institutions should be able to impose reasonable and proportionate codes of staff conduct and behaviour relating to respect for the institution's ethos, subject to ordinary principles of employment law and prohibitions of discrimination on other grounds.	Who decides <i>reasonable and proportionate</i> ? Does this mean anything with the <i>subject to...</i> language?
3. Respect for an educational institution's ethos and codes of conduct or behavior should not require employees to hide their own sex, sexual orientation, gender identity, marital or relationship status, or pregnancy in connection with work or in private life, or to refrain from supporting another person with these attributes.	Highly offensive statement.

Concluding Comments.

Anglican Youthworks appreciates the opportunity to participate in this Consultation and welcomes further dialogue with the Attorney General on this subject.

Canon Craig Roberts,
Chief Executive, Anglican Youthworks.
February 22nd, 2023.