

# Submission to Consultation Paper on Religious Education Institutions and Anti-Discrimination Laws

24/2/2023

Dear Reviewers,

I refer to the *Consultation Paper on Religious Education Institutions and Anti-Discrimination Laws*, January 2023, published by the Australian Government Law Reform Commission.

Please consider the following comments regarding the four Propositions made in that paper. This response identifies three significant oversights in Propositions A-D and makes a counter proposal.

The Terms of Reference seek to “ensure that an educational institution conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed:

- must not discriminate against a student on the basis of sexual orientation, gender identity, marital or relationship status or pregnancy;
- must not discriminate against a member of staff on the basis of sex, sexual orientation, gender identity, marital or relationship status or pregnancy;
- 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.”<sup>1</sup>

The four Propositions made in the consultation paper miss three significant issues in their attempt to achieve the goals of the Terms of Reference.

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<sup>1</sup> <https://www.alrc.gov.au/inquiry/anti-discrimination-laws/terms-of-reference/>

## Point 1: The Propositions don't demonstrate a proper understanding of religious faith

A person's faith pervades and informs all areas of life. All words and actions of a person of faith are informed by their faith, regardless of whether those actions are religiously ceremonial in nature.

Propositions A-D describe the practice of faith in schools as a separate and isolatable action from other parts of a student's education. Some of the examples cited which demonstrate this are

- A school could segregate students by sex for participation in prayers (Item 48).  
This implies that other activities don't necessarily hold any religious value.
- A school could continue to restrict participation in religious ceremonies or prayers to students who were considered to be in conformity with religious doctrines (Item 48).  
Again this implies that identified religious activities are significantly more sacred than the rest of life's practices.
- A theological college could continue to discriminate on the grounds of sexual orientation or gender identity in relation to students studying to be religious leaders. (Item 48)  
This implies that the college isn't allowed to consider those aspects for students studying to be Christian workers in areas other than leadership.
- A school could not require, as a condition of appointment, any staff member or prospective staff member to sign a statement of belief by which they had to affirm that homosexuality is a sin (Item 85).  
This implies that the school should be able to effectively carry out its faith vision without regard to some key tenets of that faith.

By its very nature, the practice of a faith position permeates all areas of life and any institution set up for the furtherance of a faith must consider the faith implications of every single aspect of its work.

Specifically in relation to Christian institutions, it is important for them to be able to put these passages of God's Word (The Holy Bible) into practice in order to properly exercise and impart their faith to those families who have requested that these institutions educate their children.

- Therefore, I urge you, brothers and sisters, in view of God's mercy, to offer your bodies as a living sacrifice, holy and pleasing to God—this is your true and proper worship. (Romans 12:1)  
This verse implores Christians to consider that worship is not just praying or singing, but involves every aspect of their being all of the time.
- God says, "You shall love the Lord your God with all your heart and with all your soul and with all your might. And these words that I command you today shall be on your heart. You shall teach them diligently to your children, and shall talk of them when you sit in your house, and when you walk by the way, and when you lie down, and when you rise." (Deuteronomy 6:4-7).  
God tells his people that knowing him is not just about religious observance, but about orienting your whole being in such a way that you please God and follow his laws.

It is not possible to enjoy the full fruits of the Christian faith in a Christian educational setting whilst removing their freedom to practice and share their faith in all areas of life.

For this reason, to only narrowly allow discrimination in areas related to prayers or educating ministers, for example, is to show a total misunderstanding for the very nature of the Christian faith.

## Point 2: The Propositions don't demonstrate a proper understanding of education

Propositions A-D describe education in schools as a process which is isolated to the confines of the school, and reduced to a process of "telling" rather than "role modelling". Education which ignores what happens outside of school hours and doesn't consider the immense impact of role modelling by staff is a poor education.

Some of the points in the consultation paper which demonstrate this lack of understanding are:

- 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 (Item 54).

This implies that the LGBTQ+ staff member at a school which holds a faith position that homosexuality breaches God's law can effectively educate students about the school's position whilst being known to hold and practice a position contrary to what they are espousing to the students. Moreover, they would be free to represent this contrary view. It's impossible to believe that the staff member's LGBTQ+ status would not give greater credence to their teaching of contrary views than if the lesson had been taught by somebody whose life practices were consistent with that of the school.

- It would be reasonable and proportionate for a school to preference an applicant for the position of a religious education teacher who was willing to teach the school's particular beliefs around sexuality, as long as the teacher was permitted to objectively discuss the existence of alternative views about other lifestyles, relationships, or sexuality in a manner appropriate to the context. (Item 85).

The implies that the willingness of the staff member to teach the school's particular beliefs around sexuality is potentially at odds with their personal position on the issue, or their personal practice on the issue. Again, this suggests that the staff member can effectively educate students on the school's position whilst actively holding beliefs and practices to the contrary.

Information is not just about imparting information, but is heavily intertwined in the relationship which develops between educator and student. For this reason, it is senseless to suggest that a school should be able to be effective in its faith aims by having staff stating the school's position on the one hand, whilst declaring a contrary position by their practice.

From a Christian faith point of view, the Word of God (Holy Bible) states that faith and practice go hand-in-hand and that faith without practice is not true faith.

- What good is it, my brothers, if someone says he has faith but does not have works? Can that faith save him? 15 If a brother or sister is poorly clothed and lacking in daily food, 16 and one of you says to them, "Go in peace, be warmed and filled," without giving them the things needed for the body, what good[b] is that? 17 So also faith by itself, if it does not have works, is dead. (James 2:14-17).

This passage of Scripture tells us that faith must be accompanied by practice to be real.

- In discussing Abraham's faith, the Bible states "You see that a person is justified by works and not by faith alone." (James 2:24).  
This is a reminder that even though people have faith, the mere belief of something is evidenced by what they do.

For these reasons, a Christian school cannot properly educate a student in the Christian faith by simply stating its faith position. To see the evidence that this faith is real, a person must live it out. Education is not just "telling" but also "doing". This basic principle of education permeates every level of education and indeed every other area of life. There is a natural expectation by people that those who espouse certain values will live by them.

To reduce education to "telling", and to not expect that Christian staff will live out the Christian faith is to ask professional educational institutions to potentially reduce the full-hearted experience of education to the basic impartation of information when it comes to the very essence of why they exist in the first place; their faith.

Faith-based schools must be able to consider the fact that a person lives in accordance with their beliefs as a merit for taking employment at that school.

When added to Point 1 of this response, it is also impossible to isolate this debate about narrowing the educational process merely to the teaching of faith topics. In a very real sense, the revealing of knowledge about the world we live in dictates that the teacher adopt a faith position on many issues. This could be issues such as origins in science, attitudes and purpose in history, sexuality and reproduction in health, ethics in civics, etc. It's impossible to properly engage a group of students on these issues without seeing the topic through a lens of one's belief.

The Propositions demonstrate a great lack of understanding of what the depth and breadth of the educational process and student/teacher relationship.

## Point 3: The Propositions don't demonstrate a proper understanding of parenting

Propositions A-D describe education as a process which only involves the educational institution and the students. There is little mention of the rights and responsibilities of parents and parenting.

Item 70 highlights an interference of Proposition D with parents' freedoms in relation to their children's religious education. This issue is somewhat dismissed in Item 70. It is further explored in the section on Further Human Rights Analysis.

Australia presently has a diverse offering of educational institutions available to families. Many families choose a secular education through government schooling or secular non-government schooling. Many parents choose faith-based schools because they realise that they have (A) a parental responsibility to raise their children, and (B) they have a statutory obligation to have their children educated. Faith-based schools which currently have exemptions under the discrimination laws provide a solution which enables parents to largely achieve both of these objectives.

To remove the exemptions in favour of adopting very narrow ranging understandings of faith and education essentially reduces the educational options available to parents who wish to have their children educated in a way which models faith values in every way.

The outcome of Propositions A-D for parents would potentially be

1. They cannot assume their child will be taught by a person who understands and wholly espouses their faith position.
2. They must assume their children's school will have no recourse over a situation where their child's teacher was once living and demonstrating a life in keeping the school's faith position on sexuality, but has now changed their lifestyle and lives openly as a gay or lesbian person, thus compromising the school's faith education of an impressionable child.
3. They cannot be confident that a person presenting a faith position to their child in a classroom will be able to teach from the experience of living out that faith position in real life.

The Word of God (Holy Bible) puts very high expectations on parents raising their children to follow in the Christian faith.

- Train up a child in the way he should go (Proverbs 22:6)
- Parents are to raise their children to honour and obey (Ephesians 6:1-4)
- Parents are to provide appropriate discipline to their children (Hebrews 12:7-11)
- Children are to grow up to provide for others (1 Tim 5:8)

Christian parents trying to undertake this in parallel to their children's education require the help of educational institutions which are free to provide education and role-modelling on Biblical Christian principals.

## Alternative Proposal

This proposal relates to Christian faith-based organisations, but may have parallel implications for others.

One of the key issues with Faith-based education is that it is often practiced by organisations which ultimately don't deliver on what their faith actually stands for. Rather than create another layer of prohibitions, it would be good to hold institutions accountable to their espoused faith position, encouraging them to act it out in every way. This would truly transform education.

It's possible to have an even better outcome for students, Christian parents, Christian education and Christian educational institutions by putting the following proposals in place as a whole.

### **In relation to students ...**

Rather than describing the current allowances as an *exemption* from a law, put in place a *requirement* of Christian institutions to fully embrace their Christian Faith in every aspect of their work. The requirement to do something good will yield better outcomes than simply attempting to block organisations from doing things which are deemed detrimental by non-faith representatives (e.g. government law makers).

This would then put an obligation onto institutions to

- Love their 'neighbour' as themselves (Matthew 22:37-39)
- Help the defenceless (James 1:27)
- Do the good works which God has prepared in advance for Christians to do (Ephesians 2:10)

This could form part of every school's annual reporting requirement; to demonstrate progress in fully enacting their statement of faith.

Imagine how much better a school would be if instead of simply requiring that they don't take adverse action on a pregnant student, they enact the full obligation of their Christian faith and try to help that student find their potential in God's great plan for their life. Imagine how much better it would be instead of simply demanding a school not reject the enrolment of a student with gender-dysphoria, they help that student work through their identity issues based on a solid understanding of the one who made them – the Creator God.

### **In relation to staff ...**

Allow institutions to choose staff based on their beliefs and practice at every level of the institution. This would mean that instead of schools and colleges becoming a tasteless mixture of faith-filled people and nay-sayers doing lip service, they are able to flourish into institutions which truly exemplify their motos and vision statements, underpinned by staff whose understanding and commitment to these virtues are held to account and refined. Having an option to send the nation's children to schools like this would mean that the ceiling on our educational outcomes is not merely described by rights, exceptions and what we say, but that we transcend this with a nation of young people who understand their purpose for living, know and obey their Creator (Ecclesiastes 12:13) and esteem others are better than themselves (Phil 2:3-5).

### **In relation to enrolments and employment ...**

Require that schools and other institutions are fully transparent about where they stand and what they teach on areas of life and faith. This will mean that parents whose faith position is at odds with the school can easily see this before they become involved. In the financial advice area institutions are required to produce a Product Disclosure Statement. Let's require that all faith-based institutions provide a position statement to help parents and prospective staff know whether this institution is a good fit for their children. Then ultimately let the Australian public make the decision in a free market economy of where they want to have their children educated.

Parents don't need extra laws to limit organisations' freedoms in order to keep them safe. They need the freedom to choose and transparent information on which to base their choice.