

Religious Freedom Bills



**Submission on the package of legislative reforms
on religious freedom – September 2019**

About Queensland Independent Schools

Community confidence in the independent schooling sector remains strong with more than 123,000 students enrolled in 218 independent schools across Queensland. These schools educate approximately 15 percent of the state's total school-age population and about 20 percent of all secondary students.

The strength of the independent schooling sector lies in the rich mix of education choices and opportunities Queensland independent schools provide families. Independent schools are as diverse as the students and parents who make up their close-knit communities.

There is a wide range of independent schools in Queensland with different values, philosophies and beliefs. A large proportion of independent schools in this state have a religious affiliation.

Of Queensland's 218 independent schools: 184 educate children with disability; 110 cater for students for whom English is a second language or dialect; 194 enrol Indigenous students; 75 offer international education programs; 33 provide boarding services; and 18 cater specifically for students who have disengaged from mainstream education.

Common to all independent schools is their commitment to strong student outcomes, high standards of behaviour, and the welfare and wellbeing of students.

Underpinning the independent sector is school autonomy and the right of schools and their communities to determine, within the law, their governance, education programs and operations.

Over the past 10 years, enrolments at Queensland independent schools have increased by 21 percent. This growth is a clear indication that parents value an independent education and are prepared to invest their after-tax incomes in their child's schooling.

Independent Schools Queensland (ISQ) is the peak body representing Queensland's independent schooling sector. ISQ represents the interests of its 218 member schools, fosters choice in education and protects the autonomy of independent schools.

Independent Schools Queensland respects the right of each independent school community to advocate to Government and upholds the right of each school to protect its individual values and philosophies.

Choice and Diversity

Diversity is one of the key strengths of Queensland's independent schooling sector. ISQ represents a wide range of schools, many of which are providing an education based on religious beliefs and convictions. Of ISQ's 218 member schools, 69 percent have a specific religious affiliation. Those schools currently educate over 80,000 students in Queensland. Some of those schools are affiliated with Christian denominations such as Anglican, Catholic, Lutheran, Uniting Church, Presbyterian or Seventh Day Adventist. Others are non-denominational Christian schools, Islamic schools and Jewish schools.

These religiously-affiliated schools consist of primary and secondary schools, co-educational and single-sex schools, schools for students with disabilities as well as schools for students that are disengaged or at risk of disengagement from mainstream education. Some of them are governed by schooling systems; however, most of them are independently operated.

Many other independent schools, whilst not having a direct religious affiliation, base their philosophy and values on religious beliefs.

The provision of an education system that encourages diversity in school choice acknowledges parents as the persons primarily responsible for making educational decisions for their children.

Parents that choose schools with religious affiliations do so because they believe that an educational community based on the doctrines, tenets, beliefs or teachings of a particular religion provides the right environment for their children to flourish.

Those parents consider that moral and spiritual development and wellbeing are important features of a holistic approach to education. This is supported by the *Melbourne Declaration on the Education Goals for Young Australians* (2008):

Schools play a vital role in promoting the intellectual, physical, social, emotional, moral, spiritual and aesthetic development and wellbeing of young Australians [...].

Parents in religious independent schools also make use of the “liberty [...] to ensure the religious and moral education of their children in conformity with their own convictions”, as per Article 18 of the *International Covenant on Civil and Political Rights* (ICCPR) to which Australia agreed to be bound in 1980.

It is important to acknowledge that religious independent schools understand religious and moral formation as deeply affected by all their educational, co-curricular, operational and administrative policies and practices. They do not consider it possible to achieve their educational objects through ‘bolt-on’ programs or religious instruction alone. This understanding provides the context on which religious freedom legislation impacts the independent schooling sector.

Religious Discrimination Bill – Exposure Draft

In light of its commitment to promoting choice and diversity in the education sector, ISQ welcomes the opportunity to respond to the exposure draft Religious Freedom Bills, and in particular, the *Religious Discrimination Bill 2019* (the Bill). The Bill is designed to provide comprehensive protection against discrimination on the basis of religious belief or activity and establishes a new office of Freedom of Religion Commissioner.

Clause 10 of the Bill seeks to ensure that religious bodies, including educational institutions as defined in subclause (2)(a), can act in accordance with their faith. It provides that certain conduct that may reasonably be regarded as being in accordance with the doctrines, tenets, beliefs or teachings of the body’s religion, and enacted in good faith, would not, in and of itself, be discrimination under this Act.

ISQ welcomes that this provision is not framed as an exception to the prohibition of discrimination.

The explanatory notes clarify that religious bodies’ actions conducted in accordance with their faith and in alignment with the provisions of the Bill, continue to be subject to other Commonwealth anti-discrimination law. The notes state that the provision contained in clause 10 “does not provide a basis for religious bodies to engage in conduct in accordance with their religious beliefs which discriminates against persons on the basis of other protected attributes (such as age, sex, disability or race)” (p.21).

Paragraph 3(2)(a) of the Bill refers to the indivisibility of human rights. In light of this, we note that the Bill does not contain provisions on how to resolve competing claims arising from this Bill and other Acts. The process of determining how this balance can be achieved has its proper place in the legislative branch of government.

ISQ recommends more consideration be given to defining the principles of balancing human rights when they are at odds.

Clause 41 of the Bill protects “statements of belief” that are made in good faith. Those statements are to be protected to maintain the freedom of expressing religious beliefs civilly and as part of public discourse. Statements of belief, however, that are malicious or that would, or are likely to, harass, vilify or incite hatred or violence against another person or group of persons, are not included in this protection.

ISQ notes that the argument of vilification can be used in attempts to challenge statements of belief. Such arguments have in the past been brought against religious bodies that were expressing reasonable views in accordance with their doctrines, tenets, beliefs or teachings.

The Bill itself does not further define the term “vilify”, which leaves it up to interpretation and may not provide adequate assurances to religious bodies making statements of belief.

ISQ recommends that adequate protections are provided for persons making statements of belief considering the vilification prohibitions of the Bill as well as those of any State or Territory legislation.

Conclusion

ISQ supports reforms to improve protections against religious discrimination and considers the proposed provisions that religious bodies do not discriminate on the basis of religious belief or activity by engaging in conduct, in good faith, that may be reasonably regarded as being in accordance with the doctrines, tenets, beliefs or teaching of their religion is a critical element in terms of fostering school choice and protecting the autonomy of independent schools.

A schooling sector that reflects our multi-cultural and multi-faith society is diverse and, at the same time, based on shared core values and common goals. It contributes to the strength of education in our nation.

It is therefore critical that the package of legislative reforms on religious freedom establishes a respectful recognition and protection of the value and place of religious educational institutions within the Australian education system.

**Independent Schools Queensland
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