

House of Assembly Government
Administration Committee A -

***Inquiry into Discrimination and
Bullying in Tasmanian Schools***

Submission by
Adventist Schools Australia (ASA) and
Christian Schools Australia (CSA)

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Recommendations

RECOMMENDATION ONE: The Committee respect the strong evidence from parents across Christian schools of the safe and supportive environments within Christian schools.

RECOMMENDATION TWO: The Committee acknowledge that Christian and other faith-based schools are an important expression of the free practice of religion protected in the Tasmanian Constitution and international law to which Australia is a party.

RECOMMENDATION THREE: The Committee recognise the evidence from Christian school parents regarding the efforts being made within Christian schools to ensure a highly responsive and supportive school culture.

RECOMMENDATION FOUR: The Committee incorporate the evidence from Christian school staff of the low incidence of discrimination and harassment and the strong commitment amongst schools for the creation of a loving and caring school environment.

RECOMMENDATION FIVE: The Committee notes the efforts being taken within schools to address discrimination, bullying and harassment through school policies and a range of other activities.

RECOMMENDATION SIX: The Committee recommend changes to the *Anti-Discrimination Act 1998* (TAS) that strengthen protections for human rights and better define discrimination.

Details of Respondents

Adventist Schools Australia (ASA) are part of the largest protestant schooling system in the world with 9,489 schools, colleges and universities in over 100 countries, educating 2,044,709 students. Within Australia, ASA has 48 schools and 13 early learning services providing authentic Christian education to nearly 17,000 students, 2 of these schools are in Tasmania educating over 300 students.

Christian Schools Australia (CSA) is a national body that supports and represents schools for whom religious formation is an integral part of the education process. CSA schools educate over 86,000 students and employ over 13,500 staff at more than 200 locations across Australia, with 5 schools in Tasmania education nearly 1,000 students. Member schools of CSA operate as independent, locally governed, religious organisations. Some are closely aligned with one or more Christian churches in their communities, while others have their heritage in a group of parents coming together to start a school.

“In all of these schools religious formation is part of the holistic education in service of ‘the common good’.”

In all these schools, religious formation is part of the holistic education in service of ‘the common good’¹

Introduction – A Foundation of Love and Care

The Bible teaches, profoundly given its historical and cultural context, of the inherent dignity and worth of all people. The Apostle Paul, writing to believers in Galatia, proclaimed that *‘There is neither Jew nor Gentile, neither slave nor free, nor is there male and female, for you are all one in Christ Jesus’*,² a revolutionary statement for the society in its day. The recognition of the unique nature of all humankind as image bearers of God, Imago Dei, provides the very foundation for contemporary Western culture and the freedoms we enjoy.

That foundation forms the basis for the revulsion towards vilification, harassment, racism or victimization held by the schools represented in this submission. This finds expression in the school context in strong anti-bullying policies and procedures and a deep commitment to high quality pastoral care – for all students. Christian schools have long prided themselves on providing effective student, and often family, wellbeing. These measures all flow from, and reflect, the Biblical beliefs and values of Christian schools, and provide a unique approach to student wellbeing.



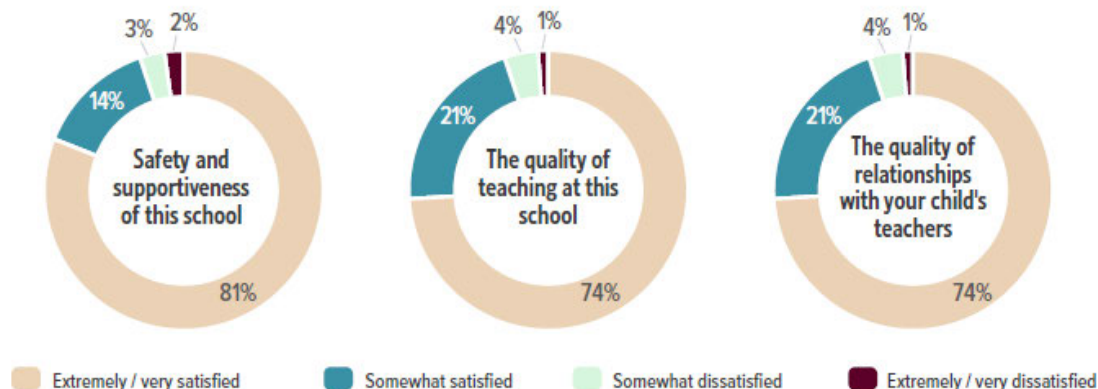
We chose a Christian school for our children because of the safe and nurturing environment.

The teachers really do care and we could not be happier with the school and the overall quality of education.

¹ The Cardus Education Survey Australia (<https://carduseducationsurvey.com.au/>) provides extensive data on the holistic education provided by Christian schools in Australia, their impact on graduates through their lives, and the contribution to the ‘common good’ across our society by these graduates.

² Galatians 3:28.

The effectiveness of these measures is reflected in the results of the *Christian Schools Community Profile Survey*, a national survey of more than 8,500 parents across more than 100 Christian schools.³ Very relevantly to the issues before the Committee, families are overwhelmingly very satisfied with the ‘Safety and supportiveness’ of their Christian school and the ‘quality of relationships between teachers and students’. This second measure being a key indicator of student well-being.



These results provide very clear and direct evidence of the efficacy of the measures put in place by Christian schools to ensure that safety of students, and give significant assurance to the wider community of the care being demonstrated within Christian schools.

Fundamental Human Rights in Action

The Tasmanian Constitution provides that (emphasis added) ‘Freedom of conscience and the free **profession and practice of religion** are, subject to public order and morality, **guaranteed to every citizen**’.⁴ This highlights the importance and fundamental nature of religious freedom, it being the only human right enshrined within the Constitution.

Of course, this is of no surprise if you consider the long history of protection for religious freedoms in international law. Modern international human rights instruments are founded upon the *Universal Declaration of Human Rights 1948*.⁵ In the preamble to this document the centrality of freedom of religion (and also freedom of speech) is clearly established:

‘...the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people’

Preamble to Universal Declaration on Human Rights

The ongoing importance of religious freedom in international law is reflected in the numerous instruments containing protections for both holding and manifesting religious faith. The most prominent of these protections is undoubtedly Article 18 of the International Covenant on Civil and Political Rights (ICCPR).⁶ The ICCPR expressly recognises and protects the ‘liberty of parents and, when

³ Iselin, D. (2023). *Why Parents Choose Christian Schools: Christian Schools Community Profile Survey, National Report Summary*. Canberra, Australia: Christian Schools Australia.

⁴ *Constitution Act 1934 (TAS)* section 46(1).

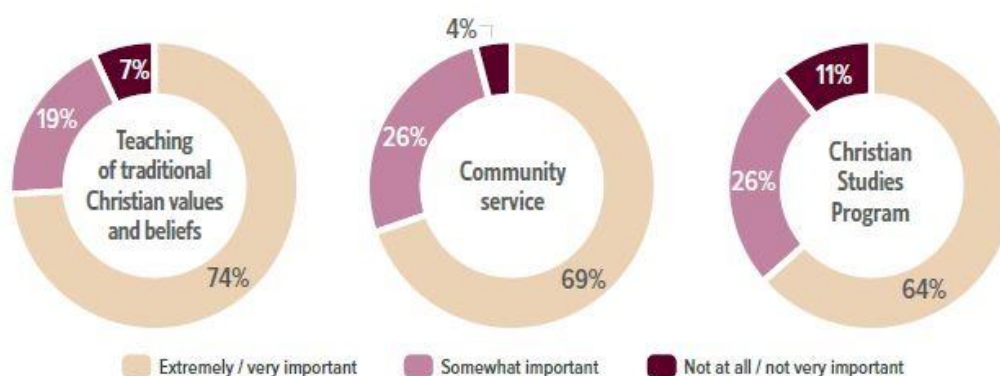
⁵ *Universal Declaration of Human Rights*, GA Res 217A (III), UN GAOR, 3rd sess, 183rd plen mtg, UN Doc A/810 (10 December 1948).

⁶ *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, UNTS171 (entered into force 23 March 1976) (*‘the ICCPR’*).

applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions’ as a key part of this fundamental human right protected under international law to which Australia is a party.⁷

The importance of this right is reinforced by the clear statement by the UN Human Rights Committee that ‘the liberty of parents and guardians to ensure religious and moral education **cannot be restricted**’.⁸ This is one of the very few rights described in this way as an absolute right.

The dominant reason why parents are choosing Christian schools is for the distinctly Christian values and teaching, with 54% of parents selecting ‘values that align with my own’ as the primary determinant in our recently conducted national survey.⁹ When asked what practices should be most important at a Christian school, 74% of parents indicated teaching of traditional Christian values and beliefs was extremely, or very important.¹⁰



The importance of community service (69%) and the demonstration and application of Christian values and beliefs was also highly regarded by parents.

The most important value-added outcome that families hoped children would achieve through attending a Christian school was strong character and Christian values (45%). This was followed by a desire to see graduates have a love for God and others (28%).



⁷ Ibid, Article 18(4).

⁸ UN Human Rights Committee, *General Comment No. 22: The Right to Freedom of Thought, Conscience and Religion (Article 18)*, 48th sess, UN Doc CCPR/C/21/Rev.1/Add.4 (27 September 1993) ('General Comment 22'), [8]

⁹ Above n3.

¹⁰ Ibid

The results of this survey provide a very clear indication of the expectations of those involved as parents with Christian schools, and the importance of ensuring that the religious nature of the schools is maintained. These are the members of the Tasmanian community most involved with those schools, with most at stake in relation to those schools, and most able to provide effective accountability for those schools.

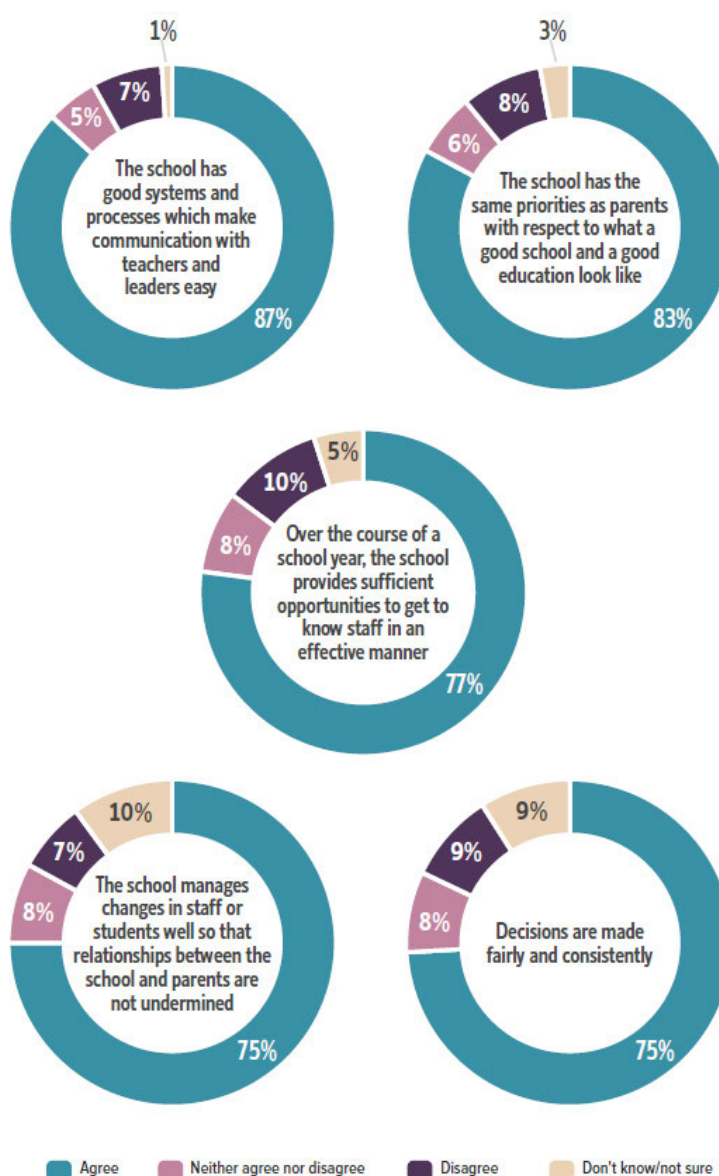
In looking at discrimination in Tasmanian schools. The Committee must do so within the overall context of a package of human rights, where discrimination is not elevated as a higher order right that can be considered in isolation.

Addressing discrimination, bullying, and harassment

While no school or school system can legitimately claim to be free of all discrimination, bullying and harassment, or at the very least perceptions of these occurring, it is critical to consider how any incidents are addressed and remedied.

Once again, the *Christian Schools Community Profile Survey* provides some helpful perspectives and insights. Christian schools are highly responsive to parents and their concerns, and build strong systems of communication and relationships, which we suggest is a critical preventative factor in relation to these issues.

The overall quality relating to the community and relational emphasis of Christian schools is clearly an area of strength according to the survey respondents, who perceived the systems and processes for communication and interaction between school and parents (87%) to clearly be the strongest aspect of Christian school communities. Parents also viewed the strong alignment between their own expectations and perceptions of what a good school and education looks



like and the school's expectations and priorities (83%) as another area of particular strength across the Christian school sector.

Fair and consistent decision making, opportunities to know staff and the management of change also elicited very positive responses from parents.

These responses demonstrate both the high level of engagement of Christian school parents, and the detailed and nuanced interest that they take with a wide range of facets of school operations. This ongoing, real-time accountability is a powerful form of monitoring of school performance in relation to the issues before the Committee.

Evidence from staff in Tasmanian Christian schools

In 2023 a national survey across nearly 300 Christian schools received more than 5,500 responses. Within Tasmania there were 150 responses, from both teaching and non-teaching staff. Amongst a range of questions staff were asked about their experience and observations of discrimination in Christian schools across their working lives.¹¹

When responding to the question, "Have you ever experienced discrimination as a member of staff at a Christian school, based on your sexual orientation or gender identity?" only one staff member, 0.7% of respondents, indicated that this had been the case.

There was a slightly higher number of staff who indicated that they had "ever seen any discrimination against other staff at a Christian school, based on their sexual orientation or gender identity?", 3 respondents or 2%.

In relation to whether staff had "ever seen any discrimination against students at a Christian school, based on their sexual orientation or gender identity?" only 4 respondents, 2.7% of staff indicated that they had.

In comments provided by one of the respondents who indicated that they had seen discrimination against staff and students they indicated that it 'was in the past' and not currently a factor in their school. Other comments from Tasmanian staff within this survey are worth noting –

"Our school have welcomed and supported non-Christian students who have struggled with their gender identity, allowing them freedom to try-out different identities. I am aware of several students that I teach who are having similar struggles. The school gives them space and love. The students feel happy, supported, and known as they wrestle with their sexual and gender identity questions." – Teacher from Rural Tasmania.

"My children attend a Christian high school in greater Hobart where a student was transitioning. This student remains at the school and is loved and treated like every other student at the school." – Teacher from Metropolitan Tasmania

"Parents enrolling at my school know the staff are all Christian and that their faith is integral to their identity as a teacher. The value that, while we teach the same curriculum, we also ensure that all children and young people are cared for, nurtured and helped to see they are precious in God's eyes. In an age where so many children and young people feel

¹¹ The majority of staff surveyed had worked in Christian schools for more than 10 years. The questions asked if they had ever experienced or seen discrimination which could have occurred at any time over these periods.

hopeless, we want to offer them a sense of hope - that nothing can separate them from the love of God.” – Teacher from Metropolitan Tasmania

“I have been discriminated against because of my faith while in a public school.” – Teacher from Rural Tasmania

“I believe my Christian faith impacts every part of my job. Because of my faith I interact differently with students and families because I believe each one is made in the image of God and therefore deserve my love, time, respect, care, and understanding no matter what they believe about God or themselves. The fact that all staff share the same Christian faith is what creates a culture of love and acceptance at our school. Without this we would lose our point of difference in the community and the ability to serve our students and families.” – Non-Teaching staff from Rural Tasmania

“I have been a teacher, team leader, AP and Principal at our school since 1994. We have never discriminated against a student due to their faith, church attendance or lack of faith and as an open enrolment school we see our role to look after and care for ALL children who attend.” – Teacher from Rural Tasmania

These survey results, and the comments from staff included above, provide powerful and very direct evidence of the genuine care, concern and authentic love that characterises Christian schools in Tasmania.

Discrimination, Bullying and Harassment in Tasmanian schools

With allegations of discrimination on the basis of disability, race and gender (sex) constituting around two thirds of the allegations of offensive conduct to Equal Opportunity Tasmania, we anticipate that these areas will form the focus of the Committee.¹²

Addressing disability discrimination has certainly been a high priority across all schools, including Christian schools represented in this submission. The *Disability Standards for Education 2005*, which clarify the obligations of education and training providers under the Commonwealth’s *Disability Discrimination Act 1992*, provide clear guidance for schools seeking to ensure that students with disability can access and participate in education on the same basis as students without disability.

Along with schools in other sectors, Christian schools have made considerable efforts to ensure that all students have equality of opportunities in spite of their disabilities and have not seen any evidence of systematic or chronic failures in meeting these obligations.

In respect of staff, we are not aware of any allegations being made of discrimination, bullying or harassment on the basis of disability, race or sex across Christian schools in Tasmania. Surveys have previously indicated that the prevalence of sexual harassment is, thankfully, much lower in Christian schools than the broader population.¹³ While not grounds for complacency, these findings do evidence the high base level of compliance within Christian schools.

¹² Equal Opportunity Tasmania, *Annual Report 2022-23*, Table 2.3

¹³ In response to the Australian Human Rights Commission’s (AHRC) 2018 national survey into sexual harassment in the workplace; ‘Everyone’s Business: 4th National Survey on Sexual Harassment in Australian Workplaces’, CSA sought to see if the national results would be reflected within member schools. The CSA survey was voluntary and of the 323 respondents an overwhelming 308 respondents (95%) stated they had not experienced sexual harassment within the Christian school context within the last 5 year period. The ‘Everyone’s Business’ findings reported that 1 in 5 people had experienced sexual harassment at work over the last 12 months.

Christian schools, like schools across other sectors, have a ‘zero tolerance’ approach to discrimination, bullying and harassment. School policies are generally very clear in their statements the school “does not tolerate bullying, harassment or discrimination in any form”.¹⁴ Schools are involved in a broad range of initiatives to prevent and respond to discrimination, bullying and harassment, from individual classroom activities through to involvement in national events such as the *Bullying No Way: National week of action*.

The short timeframe for submissions to the Committee, which also included a period of pupil vacations, has precluded an exhaustive mapping exercise of all the measures undertaken across Christian schools in Tasmania to address discrimination, bullying and harassment. While it is important to focus on a process of continuous improvement in preventing and responding to these issues, it is equally important to avoid knee-jerk reactions to individual, and particularly unverified, claims.

Legislative or policy reforms to address discrimination

If the Committee is to propose amendments to the *Anti-Discrimination Act 1998* (TAS) (“the Act”), it would be appropriate to consider the recommendations of the most comprehensive independent review of religious freedom in Australia which was completed at the Commonwealth level in 2018.¹⁵ An expert panel considered more than 15,000 submissions and consulted with 180 organisations in face-to-face meetings in every State and Territory. The Expert Panel Review had a broad scope, including to ‘consider the intersections between the enjoyment of the freedom of religion and other human rights’ and was charged with consulting ‘as widely as it considers necessary’.

After the extensive consultation by the panel of independent experts, the final report of the Expert Panel Review recommended, inter alia:

- ‘Commonwealth, State and Territory governments should have regard to the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights when drafting laws that would limit the right to freedom of religion’ – **Recommendation 2**.
- ‘Commonwealth, State and Territory governments should consider the use of objects, purposes or other interpretive clauses in anti-discrimination legislation to reflect the equal status in international law of all human rights, including freedom of religion’ – **Recommendation 3**.

The existing provisions of the Act may have the effect of undermining that equal status, instead placing non-discrimination above other human rights. In particular, the broad definition of discrimination in sections 14 and 15 and the narrowly defined exceptions and exemptions in Part 5 a pre-eminence is being placed on non-discrimination rights. This approach will also assist in overcoming, in an operational sense, some of the problems inherent in the Act, and may assist in ensuring that the protections for religious freedom in the Tasmanian Constitution can be achieved.

This aim of meeting the requirements for protections for religious freedom in the Tasmanian Constitution could also be addressed by the adoption of an alternative definition of ‘discrimination’. The proposed drafting included below provides a balancing of different human rights within a comprehensive definition.¹⁶

¹⁴ Southern Christian College, *Anti-Bullying, Harassment and Discrimination Policy*, 29 March 2022.

¹⁵ *Religious Freedom Review: Report of the Expert Panel* (May 2018) (‘Expert Panel Review’)

¹⁶ The drafting is taken from Patrick Parkinson and Nicholas Aroney, Submission to Attorney-General’s Department, *Consolidation of Commonwealth Anti-Discrimination Laws*, January 2012.

The proposed drafting would replace the existing sections 14 and 15 of the Act.

- (1) Discrimination means any distinction, exclusion, preference, restriction or condition made or proposed to be made which has the purpose of disadvantaging a person with a protected attribute or which has, or is likely to have, the effect of disadvantaging a person with a protected attribute by comparison with a person who does not have the protected attribute, subject to the following subsections.
- (2) A distinction, exclusion, preference, restriction or condition does not constitute discrimination if:
 - (a) it is reasonably capable of being considered appropriate and adapted to achieve a legitimate objective; or
 - (b) it is made because of the inherent requirements of the particular position concerned; or
 - (c) it is not unlawful under any anti-discrimination law of any state or territory in the place where it occurs; or
 - (d) it is a special measure that is reasonably intended to help achieve substantive equality between a person with a protected attribute and other persons.
- (3) The protection, advancement or exercise of another human right protected by the *International Covenant on Civil and Political Rights* is a legitimate objective within the meaning of subsection (2)(a).
- (4) Without limiting the generality of subsection (2), a distinction, exclusion, preference, restriction or condition should be considered appropriate and adapted to protect the right of freedom of religion if it is made by a religious body, or by an organisation that either provides, or controls or administers an entity that provides, educational, health, counselling, aged care or other such services, and either:
 - (a) it is reasonably necessary in order to comply with religious doctrines, tenets, beliefs or teachings adhered to by the religious body or organisation; or
 - (b) it is reasonably necessary to avoid injury to the religious sensitivities of adherents of that religion or creed; or
 - (c) in the case of decisions concerning employment, it is reasonable in order to maintain the religious character of the body or organisation, or to fulfil its religious purpose.
- (5) Without limiting the generality of subsection (2), a distinction, exclusion, preference, restriction or condition should be considered appropriate and adapted to protect the right of ethnic minorities to enjoy their own culture, or to use their own language in community with the other members of their group, if it is made by an ethnic minority organisation or association intended to fulfil that purpose and has the effect of preferring a person who belongs to that ethnic minority over a person who does not belong to that ethnic minority.

The language deliberately reflects that of the UN Human Rights Committee in paragraph 13 of the Human Rights Committee's General Comment 18 (Non-Discrimination),¹⁷ which states that '*not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the Covenant*'.

The way in which differentiation of treatment is legitimate is spelled out in this approach and provides much greater clarity, utility and alignment with international law and best practice.

¹⁷ *General Comment No. 18: Non-discrimination*, 37th sess (10 November 1989).