

AUSTRALIAN COUNCIL FOR THE DEFENCE OF GOVERNMENT SCHOOLS

Press Release 971

Religious discrimination in Australian Private Schools

The right to discriminate against children, teachers and other employees on religious grounds has raised its head at the federal level. The Labor Party is once again running scared of the aggressive religious lobby of NSW

But the actual situation in Victoria is of interest.

[According to the Guardian newspaper of 14 February](#), Anthony Albanese has reiterated that Labor will respect religious schools' right to select staff based on faith, after a backlash from religious groups to [a proposal to limit their hiring and firing powers](#).

In February an alliance of religious leaders in NSW and elsewhere rejected a proposal by the Australian Law Reform Commission (ALRC) to allow religious preference only where "the teaching, observance or practice of religion is a genuine occupational requirement".

The group, including the Sydney Anglican and Catholic churches, Greek Orthodox church, the National Imams Council, and Executive Council of Australia Jewry, wrote a letter to the attorney general arguing the "severe limits" proposed by the ALRC went beyond its terms of reference.

In January, [Guardian Australia revealed the Catholic education sector](#) would oppose the ALRC's bid to remove existing exemptions to the Sex Discrimination Act that enable discrimination and replace it with a narrower right to give "more favourable treatment on the ground of religion" for hiring employees where it is "proportionate in all the circumstances".

Before the election [Labor committed](#) to protect all students "from discrimination on any grounds" and to "protect teachers from discrimination at work, while maintaining the right of religious schools to preference people of their faith in the selection of staff".

The shadow education minister, Sarah Henderson, and the shadow attorney general, Julian Leeser, accused the government of “breaking their commitment to schools and parents on this issue”.

Leeser told Sky News the ALRC plan could mean schools can only mandate that the “minister of religion and religious education teacher” be of their faith.

A spokesperson for the attorney general, [Mark Dreyfus](#), said the ALRC inquiry was a “crucial first step” towards implementing its election commitment, but noted the government will not consider its response until it has reported. “The ALRC is an independent agency,” the spokesperson said. “It is now conducting its inquiry and has not finalised its advice to government.”

DOGS BELIEVE THAT IF RELIGIOUS SCHOOLS TAKE PUBLIC MONEY, THEY SHOULD NOT BE PERMITTED TO DISCRIMINATE AGAINST CHILDREN OR TEACHERS IN ANY WAY.

They should be openly accessible, free secular and universal and become genuinely public schools.

Their demand for religious liberty to discriminate based on the fact that they are ‘faith schools’ should be considered alongside their claim in the DOGS High Court case of 1979-1981 that they were educational, not religious institutions, and that they were no more ‘religious’ than State schools.

However, their right to discriminate has been partially eroded in Victoria :

WHAT IS THE ACTUAL SITUATION IN VICTORIA?

[The Victorian Government recently made changes to the *Equal Opportunity Act 2010*. These changes came into effect on 14 June 2022 and 14 December 2022.](#)

Under the changes, religious bodies and schools are prohibited from discriminating (except in limited circumstances where the discrimination is reasonable and proportionate or another exception under the *Equal Opportunity Act* applies) against people based on:

- sex
- sexual orientation
- lawful sexual activity
- marital status
- parental status
- gender identity.

These changes ensure a fairer balance between the right to religious freedom and the right to be free from discrimination.

Discrimination by religious bodies and schools in relation to employment

From 14 June 2022, religious bodies and schools can only discriminate against employees or potential employees where:

- conformity with the beliefs, doctrines or principles of the body or school's religion is an inherent (i.e. core, essential or important) requirement of the job
- the other person cannot meet that inherent requirement because of their religious belief or activity
- the discrimination is reasonable and proportionate in the circumstances.

Discrimination by religious bodies and schools in other circumstances

From 14 June 2022, schools can only discriminate based on a student, or prospective student's, religious beliefs or activities. However, the discrimination must be reasonable and proportionate in the circumstances and:

- to do so would conform with the doctrines, beliefs or principles of the school's religion, or
- the discrimination is reasonably necessary to avoid injury to the religious sensitivities of adherents of the school's religion

Discrimination by individuals

There is no longer an exception for individuals. This means an individual will not be able to discriminate against another person in the circumstances

covered by the Equal Opportunity Act in order to comply with their religious beliefs.

What will not change

The government has not changed the law that allows religious bodies and schools to discriminate in relation to:

- ordaining or appointing priests, ministers of religion or members of a religious order
- training or educating people seeking ordination or appointment as priests, ministers of religion or members of a religious order
- selecting or appointing people to perform functions relating to, or participating in, any religious observance or practice.

More information on what this means for you is at humanrights.vic.gov.au (External link).

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855 ON THE AM DIAL: 12.00 NOON SATURDAYS
<http://www.3cr.org.au/dogs>