



Independent Schools  
Queensland

choice & diversity

# Review of Queensland's Anti-Discrimination Act

Submission



01 March 2022

# About Queensland Independent Schools

**Community confidence in the independent schooling sector remains strong with more than 130,000 students enrolled in 230 independent schools across Queensland. These schools educate more than 15 percent of the state's total school-age population and about 20 percent of all secondary students.**

Independent schools are valued institutions and a pivotal part of Queensland's education system. They are valued schooling choices for families, hubs of human and community connection, places of intellectual, civic and social development, employers and employment generators, education innovators and change-makers.

Independent schools are as unique as the communities they serve and offer parents a choice in the education of their children. Common to all independent schools is their commitment to strong student outcomes, high standards of behaviour, and the welfare and wellbeing of students.

Many independent schools educate international students or specialise in the education of students with disability. There has also been strong growth in the number of Special Assistance Schools for students who have disengaged from mainstream schools, and trade training schools that combine senior year studies with practical vocational education and training.

Independent schools are a diverse group of non-government schools serving a range of different communities. Many Independent schools provide a religious or values-based education. Others promote a particular educational philosophy or interpretation of mainstream education.

Independent schools include:

- Schools affiliated with Christian denominations, for example, Anglican, Catholic, Greek Orthodox, Lutheran, Uniting Church, Seventh Day Adventist and Presbyterian schools
- Non-denominational Christian schools
- Islamic schools
- Jewish schools
- Montessori schools
- Rudolf Steiner schools
- Schools constituted under specific Acts of Parliament, such as grammar schools
- Community schools
- Indigenous community schools
- Schools that specialise in meeting the needs of students with disabilities
- Schools that cater for students at severe educational risk due to a range of social/emotional/behavioural and other risk factors.

Over the past five years, enrolments at Queensland independent schools have increased by more than 11 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. Independent Schools Queensland represents the interests of its member schools, fosters choice in education and protects the autonomy of independent schools. ISQ is a not-for-profit organisation and membership to ISQ is voluntary.

# Review of Queensland's Anti-Discrimination Act: Independent Schools Queensland Submission

## Introduction

The Queensland Human Rights Commission released a Discussion Paper to assist people and organisations to prepare submissions that will inform the Review of the Anti-Discrimination Act. Independent Schools Queensland acknowledges the Discussion Paper and responds to relevant discussion questions from the paper in this submission.

### **Discussion question 21:**

- ***Do you support the introduction of a positive duty in the Anti-Discrimination Act?***
- ***Should a positive duty apply to all areas of activity in which the Act operates, or be confined to certain areas of activity, such as employment?***
- ***Should a positive duty apply to all entities that currently hold obligations under the Anti-Discrimination Act?***

Independent schools in Queensland operate within a heavily regulated environment and are subject to effective Queensland and Commonwealth anti-discrimination legislation. The discussion paper correctly notes the complexity of the existing legislation. The introduction of a positive duty together with an associated regulatory model to support its implementation would significantly increase the level of complexity and red tape. ISQ has concerns about the scope of a potential positive duty and its assessment if a regulatory model were to be introduced.

In case a positive duty was to be introduced, ISQ would recommend the scope of the positive duty to be confined to the area of employment. Schools are burdened with enormous responsibilities and obligations in relation to the delivery of their educational program, its content and how it is delivered. Extending a positive duty to the delivery of education would duplicate and confuse existing requirements.

Alternatively, ISQ would recommend schools be removed from the list of entities to which a positive duty would apply, in recognition of the significant regulatory framework they currently operate within and the contribution they already make in this area.

### **Discussion question 22:**

- ***Should the statutory framework be changed to incorporate a role in regulating compliance with the Anti-Discrimination Act and eliminating discrimination?***

Independent Schools Queensland recommends the statutory framework not be changed to incorporate a role in regulating schools' compliance with the Anti-Discrimination Act and in eliminating discrimination. Non-government schools' compliance with the Anti-Discrimination Act is already regulated through the *Education (Accreditation of Non-State Schools) Act 2017* and *Regulation s11(b)(i)*, giving the Non-State Schools Accreditation Board (a statutory body monitoring and enforcing compliance with this act) regulatory oversight of this area of the law. Therefore, an additional regulatory framework would unnecessarily duplicate regulatory oversight.

Additionally, independent schools are highly accountable to their school communities. Independent schools have a great range of accountabilities due to the multifaceted mix of their responsibilities to stakeholders, governments, authorities, and their legal obligations as incorporated entities.

Individual independent schools operate in an environment of choice and diversity. The forces that operate in this environment impose an imperative for schools to be aware, innovative, and responsive to change in order to ensure that they continue to meet the needs of students and the expectations of parents to provide a high-quality educational experience for their students.

Independent schools survive only with continued stakeholder support. They are highly accountable, being responsible to their local communities, required to meet public standards, and have to comply with the legislative, regulatory and mandatory reporting requirements that apply to all schools.

**Discussion question 44:**

- ***Should the religious educational institutions and other bodies exemption (s25) be retained, changed, or repealed?***

The majority of independent schools in Queensland prescribe to a religious denomination, and faith is incorporated into their mission and philosophy of education. This provides parents and guardians with the choice to educate their children in accordance with their beliefs. The current religious educational institutions and other bodies exemption (s.25) is widely used and is fundamental to how faith-based schools deliver their service. Enrolment contracts commit schools to deliver their educational programs embedded in their religious doctrine. ISQ recommends the provision be retained to ensure the integrity of choice and diversity in education is maintained.

If the provision were to be repealed it would have a significant impact on the operations of independent schools and require substantial time to amend existing employment agreements, contracts and operational procedures.

Choice and diversity in educational offerings are valued by the community and essential to the health of the independent schooling sector. In order for genuine choice and diversity to be maintained, schools must be allowed to operate in accordance with their religious doctrines.

**Summary**

Independent Schools Queensland recognises the importance of accountability and transparency and the Discussion Paper's commitment to these principles. Increased legislation at a State, as well as Commonwealth level, has increased regulation, reporting requirements, and administration for independent schools. This increased regulation impacts the adaptability and capacity for independent schools to provide innovative education programs and respond to changing societal expectations of how best to prepare students for future life.

The increasing bureaucratic burden on schools adds significantly to the cost of independent schools and means that scarce financial and staffing resources are directed away from schools' core business of educating students. In independent schools, the cost burden is inevitably borne directly by parents, families, and school communities. This burden falls disproportionately on smaller schools that do not have the necessary economies of scale to absorb the cost of increased regulation, and on independent schools that serve low socio-economic communities.

Research undertaken within the independent sector has identified high levels of concern on the part of principals and board members about the amount of time and stress external compliance requirements are placing on school communities.

The introduction of a positive duty and a regulatory role would see a significant increase in this burden. ISQ encourage the Queensland Human Rights Commission to:

- ensure that the implementation of policy priorities is not overly prescriptive and does not impinge on the autonomy of independent schools to make decisions regarding their management and operation
- recognise that for independent schools any additional regulation, administration, compliance, and reporting responsibilities incur additional costs and these costs must be borne directly by parents, families and school communities
- consider that strategies for achieving the government’s policy priorities may be better addressed through policy documents and guidelines rather than enshrined in legislation to provide flexibility to adapt to changing circumstances.



**Independent Schools Queensland Ltd**  
ACN 614 893 140 ABN 88 662 995 577

**Head Office**  
Level 1, 96 Warren Street, Spring Hill Q 4000  
PO Box 957, Spring Hill Q 4004  
P (07) 3228 1515 E [office@isq.qld.edu.au](mailto:office@isq.qld.edu.au)

**Professional Learning Centre**  
Level 5, 500 Queen Street, Brisbane Q 4000  
P (07) 3228 1507 E [events@isq.qld.edu.au](mailto:events@isq.qld.edu.au)

[www.isq.qld.edu.au](http://www.isq.qld.edu.au)