

# INDEPENDENT EDUCATION UNION OF AUSTRALIA

## Submission to the Senate Legal and Constitutional Affairs Committee Inquiry

into the

## Exposure draft of the Human Rights and Anti-Discrimination Bill 2012

1. The Independent Education Union of Australia is the union representing all employees in non-government schools, colleges and educational institutions. Our current national membership is 71,300.
2. The sole purpose of this submission is to express our support for the submissions made by the ACTU and QIEU.
3. With respect to the submission made by the ACTU we wish to draw the attention of the committee to that section of the submission dealing with clause 33 of the bill and in particular clauses 33(1)(c) and 33(1)(d). These clauses of the Bill would provide an exception for educational institutions in respect of discrimination on the basis of, respectively, potential pregnancy and pregnancy. An exception in respect of these two attributes has not previously had wide application. For example, in New South Wales s68 of the *Industrial Relations Act 1996* contains, at s68(1), a prohibition on termination of an employee because either the employee or the employee's spouse is pregnant. Equally importantly we fail to understand the relevance and the purpose of enabling employers in educational and/or religious institutions to discriminate on these two particular bases. We are not aware of any religious

doctrine held and/or propagated by any religion responsible for the control and operation of any faith-based educational institution in Australia that would necessitate these exemptions. The Bill already contains at clause 33(1)(b) an exception in respect of marital and relationship status. The proposed exceptions in respect of potential pregnancy and pregnancy have no work to do and consequently are unnecessary and should be deleted from the Bill.

4. The IEU strongly supports the submission made by its associated body QIEU. We do so particularly in respect of section 5 of that submission. Educational institutions operated by religious bodies should not be entitled to any exception from human rights law beyond that which is necessary to uphold the doctrines of the particular religion. Additionally and importantly there should be a readily ascertainable relationship between the position an employee holds and an employer's ability to rely on the proposed exceptions. As a matter of practicality it has been many years since any faith-based educational system was able to meet all of its labour requirements by recruiting solely from its adherents. This requirement now applies only to senior leadership and religious education positions. Section 5 of the submissions made by QIEU correctly outlines the legislative context in which the exceptions should operate and the superior, more relevant and more effective provisions in Queensland legislation.

**Anthony Odgers**

**Assistant Federal Secretary**

**Independent Education Union of Australia**