

family

A D V O C A C Y

**Submission to the NSW Parliamentary Portfolio Committee
No.3 – Education on Children and young people with
disability in NSW educational settings**

February 2024

"Education is the starting point for an inclusive society".

***Key point made by all six Commissioners of the Royal Commission into
Violence, Abuse, Neglect and Exploitation of People with Disability***

Cecile Sullivan Elder, Executive Officer,
cecile@family-advocacy.com

Leanne Varga, Systemic Advocate and Campaigns Manager
leanne@family-advocacy.com

Family Advocacy (02) 9869 0866

Suite 704, 88-90 George Street,
Hornsby, NSW 2077, Australia

Acknowledgement:

Family Advocacy would like to acknowledge the traditional custodians of the lands on which this report has been written, reviewed and produced, whose cultures and customs have nurtured and continue to nurture this land since the Dreamtime. We pay our respects to their Elders past, present and future. This is, was and always will be Aboriginal land.

Table of contents

Table of contents	2
Introduction	3
Terms of reference	4
(a) the experiences of children and young people within educational settings and measures to better support students with disability	4
(b) the barriers to safe, quality and inclusive education for children with disability in schools, early childhood education services and other educational settings.....	4
(p) measures to implement the Disability Royal Commission's recommendations in relation to inclusive education ...	4
(c) the specific needs of children and young people with disability in regional, rural and remote schools, early childhood education services and other educational settings	10
(d) the impact on children and young people with disability and their families associated with inadequate levels of support.....	11
(e) the benefits for all children and young people if students with disability are provided with adequate levels of support.....	15
(f) the social, economic and personal benefits of improving outcomes for students with disability at school and in further education and employment	16
(g) the experiences of teachers, early childhood educators, learning support staff and others with a role in educating children with disability and measures to adequately resource and empower those educators.....	18
(h) the resourcing available to educational settings and educators, including infrastructure, to support the needs of children and young people with disability in New South Wales.....	19
(i) the measures necessary to ensure the learning environment is safe and inclusive for all students, teachers and school support staff	20
(j) the impact of policies regarding suspensions and expulsions	22
(k) the impact of policies regarding the use of restrictive practices.....	24
(l) the effectiveness and availability of early intervention programs	26
(m) whether existing regulatory and oversight mechanisms are sufficient to protect and promote the rights of children and young people with disability, and protect those children and young people from abuse, neglect and exploitation	27
(n) whether children and young people with disability should be included under the remit of the Ageing and Disability Commissioner	30
(o) developments since the 2017 Upper House inquiry into education of students with disability or special needs in New South Wales	30
(q) any other related matters	31

Introduction

Family Advocacy is a not for profit disability advocacy organisation that works across New South Wales (NSW) to advance and protect the rights and interests of people with developmental disability to live a meaningful inclusive life and have access to the same opportunities as the majority of Australians. This means being included in education, employment, and community with the right to live safely, with dignity, and free from violence, abuse, neglect or exploitation.

We were founded 32 years ago by families whom work with, for, and on behalf of, people with disability. We continue to be governed by families and provide support in the following ways:

- Advocacy advice and advocacy information to individuals
- Advocacy development for family members of a person with disability
- Systemic Advocacy

Family Advocacy appreciates the opportunity to provide a submission to the NSW Parliamentary Portfolio Committee No.3 – Education (hereinafter, Parliamentary Education Committee) on Children and young people with disability in NSW educational settings. We note the Terms of Reference and will address those that relate to the current lived experience and direct feedback we hear from families who have children with disability in educational settings.

Our comments and recommendations are premised on more than three decades of experience working with families in the education system in New South Wales, collaborating with the NSW Education Minister and the Department of Education including representation on the Disability Strategy Reference Group, and our widespread knowledge of research in the field of inclusive education.

Since the beginning of the 21st century, there have been many government reviews and inquiries regarding NSW students with disability in the education setting, at least five in NSW and eight at the National level, highlighting the inequities and system failures have been noted over and over again. We know what needs to be done. Despite so many recommendations for reform, our education enquiries have continued to rise steadily over the last 5 years. Too often, children and young people with disability have become collateral damage where the decision for political expediency has trumped the decision to do what is needed and *right*. The responsibility to address this lies with both NSW and Federal governments.

At this particular point in time, the disability policy landscape is in a state of flux, whilst we are awaiting government responses at State and Federal levels to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (hereinafter, Disability Royal Commission) [Final Report](#) providing 222 recommendations in September, 2023 and the NDIS Review final report "[Working together to deliver the NDIS](#)" proposing 26 recommendations and 139 actions in December, 2023. In many respects, the time for long-term thinking and planning has never been more relevant and we strongly encourage the Parliamentary Education Committee to take this viewpoint throughout this inquiry.

Family Advocacy stood alongside people with disability and their families throughout the Disability Royal Commission over the last five years and the NDIS Review over the last year, supporting them to share their experiences. We were part of an expert panel at [Disability Royal Commission Public hearing No. 7: "Barriers to accessing a safe, quality and inclusive school education and life course impacts"](#). It was an honour to be able to represent these families and their children, and to give them a voice so their lived experience and the barriers they faced could be heard. We will discuss our views on the Disability Royal Commission Recommendations in relation to inclusive education throughout this submission.

Family Advocacy has been a part of the many reviews and inquiries about students with disability over decades. We have participated in many roundtables and working groups, particularly after the 2017 Upper House Education Inquiry which ultimately supported the formulation of the NSW Department of Education Disability Strategy and Inclusive Education Policy. We appreciate the NSW government's intention to improve the educational experience of students with disability. However, we do have criticism of these policies through the formulation of multiple decades of experience that have witnessed the constant flow of new Ministers, Secretaries and bureaucratic staff attempting to resolve, to no avail, the inequities experienced by children with disability in our education system.

Family Advocacy is also a member of the [Australian Coalition on Inclusive Education](#).

Due to the breadth and depth of our experience in the education area at the individual advocacy and systems levels, we believe we are in a good position to provide valuable feedback to the Parliamentary Education Committee and accordingly, would welcome the opportunity to provide evidence at the upcoming hearing.

We acknowledge the importance of adequate support for children with disability in educational settings as well as their families. We strongly encourage the NSW Parliamentary Education Committee to adopt the Recommendations suggested in this submission and look forward to the outcomes of this Inquiry.

Terms of reference

(a) the experiences of children and young people within educational settings and measures to better support students with disability

(b) the barriers to safe, quality and inclusive education for children with disability in schools, early childhood education services and other educational settings

(p) measures to implement the Disability Royal Commission's recommendations in relation to inclusive education

We will provide commentary on a) and b) and p) together as they interrelate. Given the extensive work already undertaken addressing a) and b) in the three education related submissions to the Disability Royal Commission, provided below, we do not intend to repeat what has already been articulated and strongly encourage the Parliamentary Committee to read them.

[Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability - Submission No.1: Inclusive Education](#)

[Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability - Submission No.2: Response to Education and Learning Issues Paper](#)

[Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability - Submission No.4: Statement of Family Advocacy's Executive Officer, Cecile Sullivan Elder for Public Hearing No. 7 "Barriers to accessing a safe, quality and inclusive school education and life course impacts"](#)

Suffice to say, the panel Family Advocacy was a part of at the [Disability Royal Commission Public hearing No. 7](#), (see Submission No.4 above), the panel reported that children and young people with disability and their families faced issues with seeking enrolment and gatekeeping in many aspects related to typical school activities, such as participation in school life, access to curriculum/ adjustments/ assessments/ inability to access required supports, low expectations of development; workforce capability and teacher training issues; overuse of suspensions,

exclusions from many aspects of typical school student experiences, micro-exclusions and expulsions; lack of student and family consultation; lack of process around accountability and complaints/review mechanisms; inadequate transitions beyond school leading to paid employment; and a legislative framework that is either not well known or not well implemented.

Overwhelmingly, families report that the skills and attitudes of the school as to whether their child receives the appropriate adjustments and supports is key, and families are even saying that minor adjustments that could make a significant difference in many cases aren't occurring.

- Cecile Sullivan Elder, Executive Officer, Family Advocacy giving evidence at the [Disability Royal Commission Public hearing No. 7](#)



In response to the inclusive education recommendations, Family Advocacy wrote this Position Statement on Inclusive Education which was endorsed by twelve NSW disability advocacy organisations, and sent to the Minister for Education and Early Learning, and invite the Parliamentary Education Committee to call on the NSW government to endorse it in full.

There was full consensus where all six Commissioners agreed that the status quo can no longer be tolerated, stating: “a safe, quality and inclusive education can only be delivered through significant transformation of the school system. All Disability Royal Commissioners agreed that the status quo can no longer be tolerated, stating that:

“A safe, quality and inclusive education can only be delivered through significant transformation of the school system. In Part A, ‘Inclusive Education’ we recommend legislative and policy

changes, improved procedures and support services, and changes to culture, capability and practice ‘on the ground’. We recommend that these changes are embedded in school practices through enhanced workforce training and support, improved data collection and use, stronger oversight, and greater accountability. Reform at the scale we are proposing requires careful prioritisation and a coordinated approach.”

Accept and implement Recommendations 7.1-7.13

These suggested changes are reflected in Recommendations 7.1-7.13, listed below:

Recommendation 7.1 Provide equal access to mainstream education and enrolment

Recommendation 7.2 Prevent the inappropriate use of exclusionary discipline against students with disability

Recommendation 7.3 Improve policies and procedures on the provision of reasonable adjustments to students with disability

Recommendation 7.4 Participation in school communities

Recommendation 7.5 Careers guidance and transition support services

Recommendation 7.6 Student and parental communication and relationships

Recommendation 7.7 Inclusive education units and First Nations expertise

Recommendation 7.8 Workforce capabilities, expertise and development

Recommendation 7.9 Data, evidence and building best practice

Recommendation 7.10 Complaint management

Recommendation 7.11 Stronger oversight and enforcement of school duties

Recommendation 7.12 Improving funding

Recommendation 7.13 National Roadmap to Inclusive Education

Accept and implement Recommendation 7.14 Phasing out and ending special/segregated education

The Disability Royal Commission heard overwhelming evidence that people living in segregated settings are more likely to experience violence, abuse, neglect and exploitation. All Commissioners agreed that reforms are required to ensure that no one is forced to participate in settings designed exclusively for people with disability. However, Commissioners were split over the future of settings such as special schools. This lack of consensus on the best way forward risks potentially slowing the momentum for transformational change.

Family Advocacy agrees with Commissioners Galbally, McEwin and Bennett, noting they are the Commissioners with lived experience of disability themselves or as a family member, and encourage the Parliamentary Education Committee to call on the NSW government to give significant weight to their Recommendation 7.14 to gradually phase out and ending special/segregated education.

The moral imperative, driven by the need to achieve a genuinely inclusive society that embraces diversity, starts with the education years and any reform instigated through the recent Disability Royal Commission and NDIS Review is also supported by the following:

- acknowledges the Australia's international human rights obligations under the CRPD, [Article 24 \(Education\)](#) and [General Comment No.4](#);
- aligns with [Australia's Disability Strategy 2021–2031](#) which has the priority to build capability in the delivery of inclusive education to improve educational outcomes for school students with disability.
- supported by legislation and policy¹;
- decades of research showing better social, academic and life outcomes for ALL children²;
- supported by the NDIS Review Panel's Final Report: [Working together to deliver the NDIS](#), released on 7 December 2023, makes 26 recommendations with 139 actions to change the system that supports people with disability, including that "All Australian governments should take steps to protect the right to inclusive education for children with disability and developmental concerns in early childhood education and care and schools. (Recommendation 2, Action 2.5)."

¹United Nations Educational, Scientific and Cultural Organisation, *The Salamanca Statement and Framework For Action on Special Needs Education*, June 1994; UN Sustainability Goals 2030, Goal No.4 being to "Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all" by 2030; Disability Discrimination Act 1992; *Disability Standards in Education 2005* (Cth) Australia's Disability Strategy and the Early Childhood Targeted Action Plan;

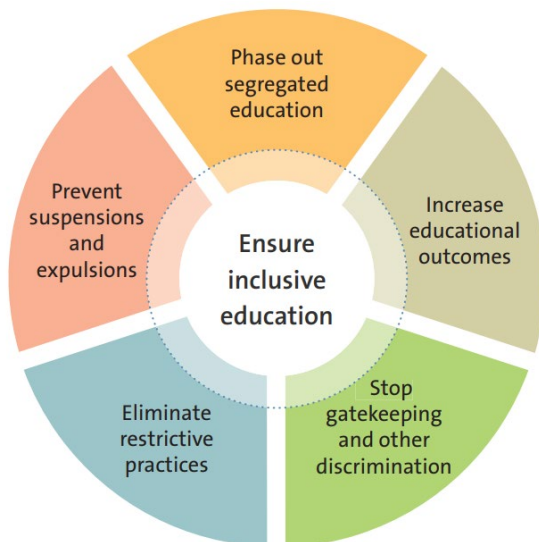
²Jackson, R (2008). Inclusion or segregation for children with an intellectual impairment: What does the research say? Queensland Parents for People with a Disability. Kathy Cologon (2013). Inclusion in education: towards equality for children with disability. Children and Young People with Disability Australia. <http://www.cyda.org.au/inclusion-in-education>; Hehir, T., T. Grindal, B. Freeman, R. Lamoreau, Y. Borquaye, and S. Burke. 2016. A Summary of the Evidence on Inclusive Education. São Paulo: Alana Institute. https://alana.org.br/wpcontent/uploads/2016/12/A_Summary_of_the_evidence_on_inclusive_education.pdf.

- better likelihood of employment in the post school years and as such with less reliance on the welfare system³; and
- it is better for society as a whole because our society is made up of diverse communities and this reality should be reflected in our education settings.

Recommendation 7.14 proposes a phased and responsible transition of our current education systems, complete with practical, time-bound targets and budgets, to eliminate discrimination through segregation and create a universally accessible, high-quality, and inclusive education system. Inclusive education can only be achieved through ongoing enhancement of mainstream practices alongside a phased and responsible transition away from segregated approaches. This transition involves moving away from "special" schools, co-located education support units within mainstream school premises, and "special" classes where students are segregated based on their disability.

Unfortunately, time and time again, history has shown us that until we merge the dual systems of mainstream and segregated education into a single inclusive pathway to education, regular schools will not undergo the necessary transformation to provide equal and non-discriminatory education to all children, regardless of disability. This alignment is fundamental to realising an inclusive education system where all children attend school, play, grow, and learn together, fostering authentic and reciprocal connections and relationships that promote respect for their diverse differences and contribute to a more inclusive society.

While we acknowledge that the longer timeframe proposed by Commissioners Galbally, McEwin, and Bennett is intended to ensure sufficient time for implementing reforms in mainstream education, the suggested timeframe of ending segregation by 2051 is unduly conservative and risks leaving two more generations of children behind. We strongly recommend that the government tightens this timeframe so less children are impacted negatively by continued segregation.



As mentioned in the introduction, this is not the only time education for students with disability has come under government review/inquiry at State and Federal level. We know what needs to be done – to transform our education system. No more tinkering. The responsibility to address this lies with government to do the right thing so students with disability don't fall through the cracks but rather have the same opportunity to reach their potential, to learn, to get a job, have friends, and live a good life. In this regard, we draw the Parliamentary Education Committee's attention to recommend the adoption of Australian Coalition's for Inclusive Education's '[Driving change: A roadmap for achieving inclusive education in Australia](#)', outlining a 10-year Roadmap. It is underpinned by six key pillars to help realise inclusive education in Australia and prevent the violence, abuse, neglect and exploitation of students with disability (diagram shown).

We recognise the implementation of Recommendations 7.1-7.14 will require clear timelines, transparency, specific long-term planning and budgetary allocations, involving co-design with subject matter experts, people who have the lived experience of disability, their families and disability advocacy organisations.

³ http://alana.org.br/wp-content/uploads/2016/12/A_Summary_of_the_evidence_on_inclusive_education.pdf;

Why not to adopt Recommendation 7.15 - An alternative approach?

We draw significant caution to the Chair, Commissioners Mason and Ryan Recommendation 7.15, proposal of an alternative approach where essentially, non-mainstream schools are integrated as much as possible with mainstream schools to maximise participation of students with non-mainstream schools. The ‘othering’ of students with disability, highlighted as an extremely detrimental consequence for these young Australians in the Disability Royal Commission’s Final Report, will continue to be perpetuated. Over many years, Family Advocacy have continued to witness these types of approaches, and in this respect, is by no means a new approach to remediate the issues that come from segregation. What is most important to consider in this reform is what it will take for students with disability to be seen as ‘a student’ that belongs to the general population group, perceived as “one of us”. Such suggestions seen through this recommendation speaks to the naivety of these three Commissioner’s understanding of ‘what’s required’ in genuinely resolving the systemic failures and only offers a low hanging fruit solution for Governments to once again not resolve the issue of inequities or to genuinely embrace the change required to create an inclusive education system.

Recommendation 7.15 is not compatible with policy, legislation and international conventions

It can be argued that a key reason for the maintenance of special schooling in an education system is inconsistency in interpretation of terminology. Recognising the barriers to implementing inclusive education systems, including ambiguity around ‘inclusive education’, which was not defined in Article 24 of the *Convention on the Rights of Persons with Disabilities (CRPD)*, the United Nations adopted General Comment No 4 (GC4) to provide an explicit definition of inclusive education, its core features and its implementation (United Nations 2016):

Inclusion involves a process of systemic reform embodying changes and modifications in content, teaching methods, approaches, structures and strategies in education to overcome barriers with a vision serving to provide all students of the relevant age range with an equitable and participatory learning experience and environment that best corresponds to their requirements and preferences. (United Nations 2016 para. 11)

Distinctions are made between inclusion and:

- integration as the ‘process of placing persons with disabilities in existing mainstream educational institutions, as long as the former can adjust to the standardised requirements of such institutions’;
- segregation ‘when the education of students with disabilities is provided in separate environments designed or used to respond to particular or various impairments, in isolation from students without disabilities’; and
- exclusion ‘when students are directly or indirectly prevented from or denied access to education in any form’ (United Nations 2016 para. 11).

It is clear in its expectations that this obligation is not compatible with sustaining a dual track system of education: mainstream and special schools.

This approach is also inconsistent with [Australia’s Disability Strategy 2021–2031](#) which has the priority to “build capability in the delivery of inclusive education to improve educational outcomes for school students with disability”.

Recommendation 7.15 is underpinned by the medical model of disability

Education policy is value-laden (Taylor, et al.1997)⁴ particularly when students with a disability are the focus. Progressing inclusive education requires a commitment to the values associated with the social model of disability (Oliver, 1983)⁵ rather than perpetuating a special education and often associated medical model (Carrington & MacArthur, 2012).

4 Taylor, S., F. Rizvi, B. Lingard, & M. Henry. 1997. *Educational Policy and the Politics of Change*. Routledge

5 Oliver, M. (1983). *Social Work with Disabled People*. Macmillan.

By way of a brief explanation, the social model of disability considers the way the physical and social environment is constructed and responds to individuals with an impairment. This model represents a shift as it asks how societal norms, beliefs, values and behaviours can create disability within individuals. Difference is regarded as a natural part of human diversity and as such ALL students, irrespective of their level of (dis)ability, belong and will be educated in the same inclusive educational context. It is the responsibility of educators and education systems to remove any barriers faced to ensure that all students have access to the same learning opportunities (Carrington et al., 2024)⁶.

The medical model considers that disability is caused by an impairment which represents a deviation from the norm and requires treatment from medical and education professionals, to be fixed or cured (Cologon 2014)⁷ and to fit into society and in schools. It is clear that the values associated with social justice, equity, and inclusion need to underpin NSW and national inclusive education roadmap/framework/ approach to policy and practice⁸. It is also important to remember that progressing inclusive education is not only about diminishing special education, it is about transforming our education system to provide equity and inclusion for everyone, highlighting the intersectionality of disability and diversity more broadly.

Recommendation 7.15 is not consistent with research evidence which shows poor education and employment outcomes

The decision to maintain both mainstream and special schooling options is inconsistent with research evidence on outcomes for students with disability and their peers. For many years, maintaining segregated education options has been due to the assumption that children with a disability are better placed in special education settings, but there is no evidence to support this belief (Hehir et al. 2016). Evidence instead demonstrates that placement in segregated settings for students with disability has resulted in a marginalised population that has been institutionalised, undereducated, abused, neglected, socially rejected and excluded from society (Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability 2020).

Further, [modelling done by the Disability Royal Commission](#)⁹ revealed if you go to a special school you are highly likely to be unemployed, significantly less likely to work in open employment, and 85% more likely to end up in a sheltered work with very limited living options as an adult. Even if you attended a special/segregated class in mainstream schools, you were significantly less likely to be employed in the open employment market compared with those who previously attended mainstream classes¹⁰.

Recommendation 7.15 does not acknowledge the problematic nature of “parent choice”

One justification for special schools and support units is parental choice. However, the Disability Royal Commission findings are clear. Neither mainstream nor special schools offer a genuine choice for parents.¹¹ Parents of children with disability shared that they do not have viable schooling options to choose from, and that they decide on special school to escape the rejection, stress and academic neglect that is possible in the mainstream schools that are not prepared for children with disability. But we also heard special schools also fall short of providing academic achievements, friendship and the normative preparation for life that families want and expect. Certainly, the calls we receive with parents confirms this.

Time and time again, Family Advocacy hears from families through our advocacy enquiries that the ‘least worst’ option was chosen and not the preferred option of a regular education in the broader student population. Choice in

⁶ Carrington, S., Mavropoulou, S., Siggers, B., Nepal, S.. 2024. Inclusive education in Australia policy review. Autism CRC.

⁷ Cologon, K. (Ed.). (2014). Inclusive education in the early years. Right from the start. Oxford University Press.

⁸ Australian Coalition for Inclusive Education’s Roadmap. [‘Driving change: A roadmap for achieving inclusive education in Australia’](#).

⁹ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, [Research Report: The association between segregated education and employment on the outcomes of NDIS participants](#), September 2023.

¹⁰ Ibid. p 37

¹¹ Mann, G., How can segregated special schools still be a choice?, The Centre for Inclusive Education Blog

the true sense of the word is driven from genuine options with the current state of play only offering choice off a broken system. Alarming, within the Department of Education's Disability Strategy team we have seen case studies presented that showcase the positives of special education whereby part of the case study highlighted that the regular education system failed the student even though the regular classroom was the preferred choice of the parent. The best of a bad lot comes to mind and concerning, this was missed by the Disability Strategy team as a critical consideration. We encourage the committee to explore this further across many families' current position on where they would like their children educated if the system was not broken.

Importantly, this issue was considered in great detail for the Disability Royal Commission by an eminent human rights law expert, that concluded there is no international right or obligation to support parental choice for segregation (Byrnes, 2020).¹²

We would argue parent choice is being used as an excuse by our governments' inaction to plan and invest in inclusive education. And as mentioned we would recommend that the driver of CHOICE be examined against the failures of the current system to provide. A helpful starting point for this is offering the alternative to families by proposing "If the current education system was reformed and provided the supports required for your child alongside other students which would you choose?" Parents are being made to choose between special/mainstream school and this places more weight onto the weary shoulders. The time for a genuine examination of parent choice discussion needs to occur if the NSW Government is genuine in its intention to resolve this dilemma.

Conclusion

Recommendation 7.15 is short sighted and reactive. It will keep NSW in an endless cycle of review, predictable findings and ineffective responses, and leaves students with disability in a suboptimal environment whether it is mainstream or special schools. A segregated education system tends to lead to a segregated life. When it comes to avoiding harm and making a positive difference in the lives of children with disability and their future adult selves, we believe we must set our sights on the creation of inclusive schools.

Mainstream schools as they currently exist struggle to consistently provide what parents want and importantly, what the student needs. But special schools do not and can *never* offer an acceptable alternative, not even if co-located with mainstream schools or with programs to occasionally share experiences with non-disabled peers. These are flawed, simplistic suggestions for fixing complex problems and have had little success in the past. To keep the status quo and continue with a dual system (presumably to keep all parents happy) dilutes our efforts for *real change* and distracts from the critical work of making an authentic difference in the lives of students with disability.¹³ We strongly encourage the Parliamentary Education Committee to be brave and informed in this regard. This point in time marks an opportunity for NSW to be leading the charge amongst the other States and Territories.

Whilst special schools or classrooms exist, students will fill them. Whilst support units arise, students will fill them. History shows us that the existence of special schools and support units clouds our educational vision for students with disability and keeps inclusive education reform locked in an ever-circling holding pattern. Certainly, there must be a transition time for the decommissioning of special schools, but without a firm end date in mind for the era of segregation, our legal obligations towards students with disability will always be a distant dream, unattainable and out of reach. Hence, the reason to accept and implement Recommendation 7.14 and we encourage the Parliamentary Education Committee to call on the NSW government to do so.

(c) the specific needs of children and young people with disability in regional, rural and remote schools, early childhood education services and other educational settings

Family Advocacy collaborated with Disability Advocacy in the report '[Falling Behind: A Need For Inclusive](#)

¹² Andrew Byrnes (2020) [Analysis of Article 24 of the CRPD](#)

¹³ Ibid.

Education, which was based on consultations and interviews with people with disability, their parents, teachers and principals in rural, regional and remote areas.

Students with disability in regional, rural and remote areas face similar significant challenges in education settings as we have discussed, but are double disadvantaged, with geographical issues such as thin markets with less options for schooling, social isolation, and inaccessible built environments. Schools can also face challenges attracting and retaining skilled teaching staff.

Not having an independent complaints system in these locations can be particularly problematic as, living in close-knit communities where anonymity is difficult, families may be reluctant to escalate matters for fear of retribution and/or back door communications between local schools which can lead to gatekeeping. This scenario is no different for families in metropolitan areas except that a family in a rural, remote or regional area may have to relocate to a regional/metropolitan area to find another school. Unfortunately, we have seen this occur many times.

For this very reason, it becomes even more imperative to get inclusive education right in regional, rural and remote areas so children with disability can attend their local school and families do not have to travel long distances to out of area special schools or worse, have to relocate their entire family.

(d) the impact on children and young people with disability and their families associated with inadequate levels of support

“We have a broken child that we are trying to piece back together.... we do not have a roadmap, there is no accountability and it feels like we have just been left on our own to work all of this out and somehow get our boy back.”

- **Parent**

School education settings - Students don't feel supported to learn and engage in activities at school.

- ***Only half (54%) reported feeling welcome and included***
- ***70% of students reported being excluded from events or activities at school***
- ***65% of students reported experiencing bullying and 13% preferred not to answer***
- ***Only 27% reported feeling supported to learn at school***
- ***Only 35% of families felt teachers and support staff have adequate training and knowledge to support the student***

***Children and Young People with Disability Australia (CYDA)'s Early Childhood Education & Care Survey 2022 – for families and caregivers of children in early childhood education and care settings.
Note: 24 % of families that answered the survey were from NSW***

It is common for our advocates to hear from families what we heard throughout the Disability Royal Commission: how the education system is failing to support the basic needs of each student. We heard how despite good intentions of policy, the unwelcoming nature of schools has meant many children and young people continue to “lose out” on the opportunity of gaining a quality education. The impacts on the student and their family can be very damaging. There are many negative consequences such as lack of academic progress due to extended suspensions, expulsion or home schooling often borne out of inequities in the system which comes with poor self-esteem and social stigma.

A heavy onus is placed on the parent to have to advocate for their child on a regular basis which is all encompassing and time consuming. Often this advocacy is around predictable and avoidable scenarios such as support

considerations that have been made clear through informal and formal processes. It is not uncommon for parents to forgo employment opportunities, to end up on reduced hours or to lose their job altogether due to having to take too much time off work.

I am a single parent and lost my job after my child (in primary school) had three suspensions for extended periods of time. This caused a significant loss of income for me with the flow on affect proving quite detrimental for the whole family unit. Frustratingly, I offered many of the strategies that I knew would supports my child which were not undertaken consistently, and then forgotten. Meetings to resolve this so my child could return to school were not followed through with. This could all have been avoided with good communication, collaboration and a willingness to fail forward, meaning giving things a go and learning from them if they don't work. Like every child, my child deserved the opportunity to reach their full potential, to be able to learn and play with his neighbourhood peers. Sadly, he was denied this opportunity.

- Parent

This is one of many stories that highlight the ineffective processes and attitudes within NSW schools with the ripple effect being very significant for many families. This takes a heavy toll on families, financially and emotionally. It is important to mention that for many families attempting to enrol their child in a regular school they are often told that their child does not belong there, that their child is better supported in another environment and that they will not be doing the best by their child and the other students if they choose this. For these families, advocating for supports and genuine inclusion is hard and as parent, the sense that their child is already not wanted there plays a heavy toll for loving parents.

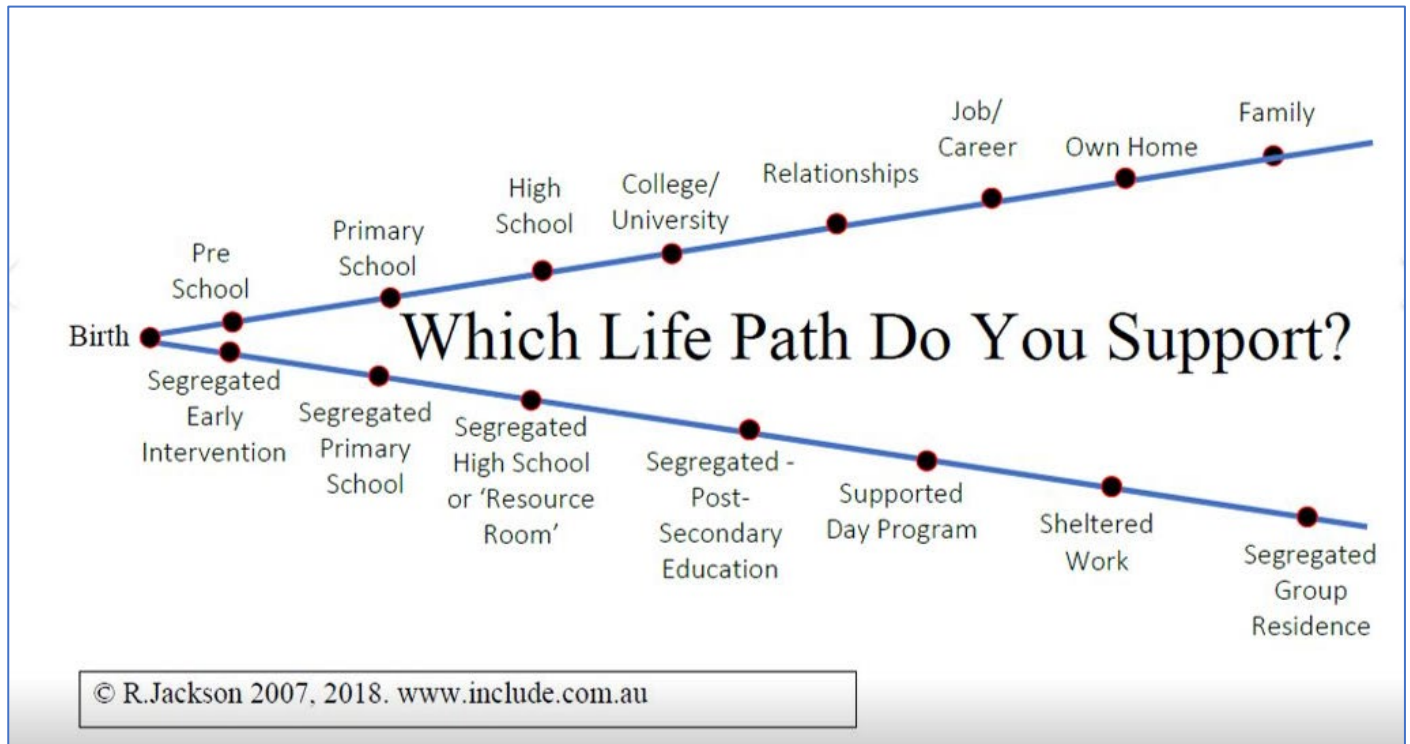
Education attainment for our students with developmental disability are typically via a Record of School Attendance (RoSA) and not a Higher School Certificate (HSC). Many do not complete through to Year 12 as schools find it increasingly hard to accommodate and are thwarted by systems that require registration to HSC or Life Skills pathway which means many electives are not available to students not doing full stage outcomes or Australian Tertiary Admissions Rank (ATAR).

Family Advocacy has observed a strong funnelling from schools into the Life Skills program which is segregation via curriculum and is not a pathway to work as it is so limiting. Life Skills is problematic and needs to be scrapped. Many families, however, are supported by Family Advocacy to advocate around this and at times with success in gaining access to electives for their children.

This constant advocating although comes at a great cost to many. Importantly, electives provide some experimental insights for young adults into possible future work roles. Over the many years the Life Skills program has been utilised as an educational tool for students with disability, there is no evidence that it sets students up for a future for work and adulthood. This component of the education system is very problematic and it resembles the institutional medical model based practices from many years ago. We strongly recommend that this practice including its outcomes be examined.

The Inclusive v Segregated Life Path

The diagram shows the natural pathways of childhood and the impact of an ordinary inclusive pathway versus a segregated pathway. Every step taken down the segregated pathway has a distinct “othering” effect, where people with disability end up living their lives parallel to the rest of society rather than being in and part of community. One family member noted, “the further you travel down the segregated path, the harder it is to come back to being included in community and the good things of life”.



It is when we turn our minds to the impact on a student with disability's life course, that the impact of inadequate levels of support becomes pivotal. For many people with disability at school, due to low expectations, employment is simply taken out of the equation as a future option. Day programs and sheltered workshops become the common pathway without any opportunity to explore open employment. Work experience and other programmes deemed to be helpful in transition are not on offer for a lot of students with disability and particularly those in support units/classes/schools. If on offer, it is often done within school grounds, with low expectations around employment possibilities, often resulting in no employment post school. This is despite current policies that state otherwise. Success in employment for students with disability is usually via families with a determined vision.

As previously discussed, employment outcomes are extremely poor for students with disability¹⁴, and this is consistent with Australia's poor employment record for people with disability over the last three decades (AIHW 2017)¹⁵. People with intellectual disability experience far lower rates of employment. According to the [NDIS Employment Outcomes from 2021](#), only 29% of people with intellectual disability who are NDIS participants were in paid employment, and 45% were employed in an Australian Disability Enterprise. As highlighted in the Disability Royal Commission findings, Australian Disability Enterprises are structured so remuneration for employee with disability is well below minimum wage, as low as \$2.90 per hour¹⁶.

Family Advocacy has made strong suggestions to the NSW Government around the use of The Discovery Process as used in the Customised Employment Model as its targeted specifically at people who are not deemed employable and/or have a long-term issue with attaining employment. The current system does not utilise the Discovery process

¹⁴ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, [Research Report: The association between segregated education and employment on the outcomes of NDIS participants](#), September 2023.

¹⁵ <https://www.aihw.gov.au/reports/australias-welfare/australias-welfare-2017/contents/summary>

¹⁶ [Australian Government Fair Work Ombudsman, Employees with disability pay rates](#)

well, if at all, leading to little or no aspirational work outcomes. The current focus places too much weight on what a young adult can do rather than a focus on strengths, interests and conditions for success for the person that is utilised in the Discovery Process. The Customised Employment model has been suggested as core training for the disability employment sector under Disability Royal Commission Recommendation 7.16 - Priorities for inclusion in the new Disability Employment Services model - adopts customised employment models as a core component of service provision. Schools in NSW should be utilising this potent model in transition planning and work experience placements as it offers a remediation to assist in resolving these very poor employment rates. Importantly, the employment landscape is under reform nationally with the 'school years' providing an excellent and essential starting point to getting this right.

Family Advocacy, through its capacity building initiative, Resourcing Inclusive Communities, is currently delivering a project focused on employment, the [School to Work project](#). This project targets family members of students with disability aged from Year 7 through to Year 12. The capacity of families is built in relation to lifting expectations around employment, understanding and navigating pathways to employment and from a young age, working with schools to ensure this is top of mind in transition planning, post school transition considerations, supporting the young person to prepare for a future of work. This project has run for over 3 years and has engaged with thousands of families, students, school staff and employment specialists and is just the tip of the iceberg in relation to the change needed. Many young people are deemed unemployable in the open market and this filters through in many ways and through many systems. Families, on the other hand, can act as the strongest safeguard and the biggest protector of a brighter future. The success sought with higher employment outcomes for all people with disability will only be achieved with ongoing investment in families.

The mother of a young woman in her final year of school attended an introductory webinar run by the School to Work Project. Prior to attending the webinar this parent was unaware of the options for her daughter after finishing Year 12. The school had not supported access to any transition opportunity or supports and the parent was unaware of employment opportunities outside of an Australian Disability Enterprise (ADEs). After attending the introductory webinar this parent commented she was astounded by how many post school options were available for consideration, also acknowledging the importance of her daughter accessing typical employment opportunities in the community. Since then, this parent has since attended two further School to Work events. During a recent workshop she stated how having access to the information shared by the School to Work project helped her change the employment focus for her daughter from segregated settings to open employment.

Receiving School to Work project information will have a large impact on this parent and as a result the opportunities that her daughter will have access to, with the focus now on meaningful employment in the community, as opposed to employment in an ADE or accessing a day program. As a result of this parent's enthusiasm and willingness to take on the information shared, she has been suggested for leadership development.

[School to Work] needs to make a much bigger effort to get 'in' with schools and the Dept of Education as they are gatekeepers for a large group of parents and their approach is much more inclusive than the SLES providers the Department tends to partner with.'

Parent

Family Advocacy would be happy to offer more information about the School to Work project should the Parliamentary Education Committee wish to know more.

For a number of years, Family Advocacy has suggested the need for a [Work Transition Pilot using Discovery Process](#), recommended in our *Same Classroom, Same Opportunity* – Securing Better Futures Through Inclusive Education campaign.¹⁷ This program aims to improve the transition of young people with disability from education to employment, reducing the increased likelihood of unemployment that people with disability face compared to those without disability. We encourage the Parliamentary Education Committee to recommend the NSW government fund this work transition pilot project using the discovery process which includes evaluating the pilot and using the lessons learned to improve the transition to work for young people with disability in NSW.

The impacts of inadequate supports are therefore not limited to financial costs but are many and varied: social, developmental, intellectual and emotional/mental health. By failing to properly provide adequate levels of support, the NSW education system is setting up these students for a lifetime of disadvantage, unemployment, low levels of mental and physical health, social isolation and ongoing welfare dependency.

(e) the benefits for all children and young people if students with disability are provided with adequate levels of support

Research indicates that inclusive education leads to positive academic and social emotional outcomes for all students, with and without disability (Hehir et al. ¹⁸, 2016; Szumski et al., 2017¹⁹). A study of literature (Cologon, 2019)²⁰ found the following:

- inclusive education leads to better social development for children with and without disability
- children who experience disability who are included into mainstream educational settings demonstrate better academic and vocational outcomes when compared to children who are educated in segregated settings
- children with disabilities develop stronger skills in reading and mathematics, have higher rates of attendance, are less likely to have behavioural problems, and are **more likely to complete secondary school than students who have not been included**
- as adults, children with disabilities who have been included are **more likely to be enrolled in post-secondary education, and to be employed or living independently**
- children who do not experience disability have also been found to benefit academically from inclusive education with equal or better academic outcomes compared to children participating in non-inclusive settings
- through participation in inclusive education, teachers experience professional growth and increased personal satisfaction.

Inclusive education is consistent with the overarching objectives of [Australia's Disability Strategy 2021–2031](#) and the philosophy of the NDIS to increase the economic, social and community participation of people with disability. Inclusive education provides the right foundation towards reaching these. The end result will mean we have a:

Stronger community - Not only does Inclusive Education benefit all children but it also lays the foundation for strong communities that value diversity and can interact and prosper with a wide range of people.

¹⁷ <https://www.family-advocacy.com/what-we-do/systemic-advocacy/same-classroom/>

¹⁸ Hehir, T., Grindal, T., Freeman, B., Lamoreau, R., Borquaye, Y., & Burke, S. (2016). A summary of the evidence on inclusive education. Alana Institute.

¹⁹ Szumski, G., Smogorzewska, J., & Karwowski, M. (2017). Academic achievement of students without special educational needs in inclusive classrooms: A meta-analysis. *Educational Research Review*, 21, 33-54. <https://doi.org/10.1016/j.edurev.2017.02.004>

²⁰ Cologon, K (2019), Towards inclusive education: a necessary process of transformation. Report written by Dr Kathy Cologon, Macquarie University for Children and Young People with disability Australia (CYDA)

Stronger economy - Inclusive education is necessary for the economy to grow the highest percentage of citizens that are working and contributing to society. One concern that is often raised is the cost of supporting all students within their local schools. A number of international studies, in Western nations, have found the immediate cost of inclusive education is comparable to that of operating special schools. However, the benefits for society once students, both those with and without disabilities, leave school and transition into adult life are much greater for everyone if they are part of an inclusive schooling environment.

Current students are the future employers of tomorrow and if we are serious concerning our commitment to increasing the workforce participation of people with disability, then they need to be seen as equal contributors alongside their peers and through their education years. Our historical and current practice of segregated education speaks clearly to the current failing of employment opportunities for people with disability.

Stronger mental health - A recent study by the Advocate for Children and Young People found that students with disability reported the lowest well-being than their peers without disability. No doubt having a sense of belonging and ability to contribute that comes from inclusive education will lead to positive mental and physical health.

Film showing the benefits for all if provided with adequate supports



Inclusive High School Education - [Al's story](#) - (15.51 minutes)

This film is about Al Graham and his inclusive education journey through the lens of his last week at Turrumurra High School in NSW. Thank you to the Graham family and Turrumurra High School.

[Al's school mate](#) - "The opportunity it's given me and others has been really significant to our lives and had a really huge impact on us".

[Al's teacher](#) - "All those soft skills go out into the workforce and out into the community, and that's where you start to get the inclusiveness that you want in our communities, and the acceptance, the promotion of diversity".

(f) the social, economic and personal benefits of improving outcomes for students with disability at school and in further education and employment

We share two videos to illustrate this point.



Inclusive High School Education - [Jacob's story](#) (18.59 minutes)

School is one stage in life where we learn to become an adult, form our viewpoints, determine our social peer groups and be an individual. Families often express how valuable it is to hear from other families about their experiences, what are others doing out there in the real world? We decided to make this film in order to provide families with this experience of one student's journey through primary to high school and showcase how Jacob's school is adjusting and providing for him to have the same opportunities and school life as every student in the regular class.

[Annette](#) (Jacob's mum), "...something that we really would encourage that people think about their child's life holistically, as a

whole going beyond school because school is only just one part of their whole life but it certainly sets them up for having a good life after they leave school”.



We provide a recording of our [Inclusive Education Forum](#) February 2023 (from 6 min – 17.30min), where Jacob’s mum shares the benefits of inclusive education for Jacob’s life at school and beyond. As a young adult in his 20s now, Jacob is currently working at the Woolworth’s in his local community, where he had one of his original work experiences going back to Year 10. “The social benefit...Jacob is recognised and known when we go out in public. I see that being part of the community is a protection. He is in the middle of everything where it is safe. People who knew him from his school days or where he has worked want to come up and talk to him and are interested in what he is doing.”

You can hear Jacob sharing his views on going to his local school with his brothers and sisters (at 11.56 mins).



Inclusive Primary Education - [Joscelyn’s Journey](#) - (23.45 minutes) This film is about Joscelyn’s inclusive education at primary school from Kindergarten to Year 6.

Lee Oliver (Principal) - “We...are a reflection of society and that’s what schools are. ...So if we can provide for Joscelyn or any child, the ability and skills and knowledge to go out on to high school or the wider community, Joscelyn will make a significant contribution to Lake Albert Public School, to high school and the workforce down the track...So it’s been a team effort and a positive one.”

Jos is now 32. She is an Aunt, bakery worker, community creche volunteer, gym member, commuter, homemaker, friend, much valued community member and lives independently in her seaside home town of Vincentia, Jervis Bay, NSW. Her mum’s

strong advocacy has been critical to Jos achieving these valued roles.



School Work experience - [Rhiannon’s work experience](#) (6.26 minutes), a story about Rhiannon’s successful work experience at her local Bakery. Rhiannon’s mother, Di, thought carefully about the tasks her daughter would be performing and prepared the employer and Rhiannon as much as possible prior to the work experience actually happening. Rhiannon was prepared for success as her mother collaborated with the employer and the employer was receptive to her input.

We strongly recommend this video be adopted as an exemplar of good practice towards providing a system that supports genuine work experience for young people with a disability whilst they are at school, and also changing community attitudes, upskilling the capacity of parents, and lifting employer engagement.

(g) the experiences of teachers, early childhood educators, learning support staff and others with a role in educating children with disability and measures to adequately resource and empower those educators

We do not pretend to be educators. However, the advocacy enquiries we receive from families backs up the extensive research which shows teachers have a fundamental role to play in school inclusion with their attitudes, responsibilities, performance and support needs. There are three broad determinants of the teaching role that underpin greater inclusion/participation of children with disability in mainstream settings: teaching competence (knowledge, skills and attitudes), commitment to opportunity creation, and collaborative ways of working (such as co-teaching)²¹.

Teachers are responsible for classroom relationships and have a significant influence upon how students are viewed by their peers. Teachers must run their classrooms and teach the curriculum in a way that all class members can participate without being singled out. This requires consideration of different learners' needs from the outset, which is a principle of Universal Design for Learning. A 2021 Grattan Institute survey of 5000 Australian teachers found 90% of teachers are saying they do not have enough time to prepare for effective teaching or effectively plan their lessons. They estimated they could save an extra two hours a week to focus on teaching if non-teaching staff took on their extra-curricular activities such as supervising sport or doing playground duty.²²

The physical presence of teacher assistants can be positive and negative. They can act as interpreters or mediators, discouraging harassment or belittling, but can limit opportunities for peers to speak to each other freely.²³ There is the concern that the student with the greatest need end up receiving instruction from a teaching assistant (who is the less educated on how to teach), and spending less time with their teacher. Whilst there are benefits, there are dangers if teaching assistants are not used intelligently. The United Kingdom invested heavily in early 2000s but this did not boost learning²⁴ as it cut the amount of time these students spent with their teacher. These risks can be avoided with better planning and training. We draw the Parliamentary Education Committee's attention to 'Evidence for Learning (2019) [Making best use of Teaching Assistants](#), Sydney: Evidence for Learning' and suggest they be recommended.

Of particular significance is the poor employment record of the Department of Education of people with disability. Out of nearly 100,000 employees²⁵, there are only 1,817 employees with disability²⁶ (1.2%), well below the NSW governments commitment to increase representation of people with disability in the NSW public sector to 5.6%.²⁷ There is much scope for improvement and we encourage the Parliamentary Education Committee to make recommendations in this vein.

We do make it a priority to be connected with academics around the country and keep abreast of the latest research both in Australia and abroad. We encourage the Parliamentary Education Committee to seek further information from:

[Inclusive Educators Australia \(IEA\)](#) is an organisation established to represent and support inclusive education professionals who are committed to advancing quality inclusive education practices in Australian schools. IEA recognises the professional knowledge and skills of inclusive educators and promotes and supports their valuable leadership across schools and education systems.

²¹ Disability Royal Commission [Research Report - Outcomes associated with inclusive segregated and integrated settings for people with disability](#); p 170.

²² [Making smarter use of teaching assistants](#)

²³ Ibid.; p 112.

²⁴ Sharples, J., Webster, R., Blatchford, P., [Making the best use of teaching assistants Guidance Report](#) (2021) Education Endowment Foundation; p 6.

²⁵ NSW Department of Education website, [Your Career Journey](#)

²⁶ Budget Estimates 2023-24 Hearing – 24 October Supplementary Questions; p109

²⁷ ASQ - Hon Kate Washington - Families and Communities, Disability Inclusion - received 7 December 2023.pdf; p49

IEA is focused on celebrating and advancing inclusive education reform efforts, and is committed to building the confidence and capability of the education workforce to ensure scalable and sustainable change across classrooms, schools, and education systems.

[Centre for Inclusive Education, QUT](#) - which aims to produce high-quality impactful research on matters that affect students in school education with the purpose of reducing exclusion and increasing inclusion to provide all children and young people with equitable opportunities to learn and develop as independent and valued human beings.

We highlight their recent book launch and highly recommend the Parliamentary Education Committee reads Graham, L.J. (2024) *Inclusive Education for the 21st Century: Theory, Policy and Practice*, Second Edition, NY Routledge. Video recordings of the book launch and purchase of the book can be accessed [here](#).

This book takes a comprehensive look at the question: How can teachers and schools create genuinely inclusive classrooms that meet the needs of every student? It explores evidence-based strategies to support diverse learners, learning from international experience, multi-tiered systems of support, implementing systemic inclusive education reform from the policy level right through to classroom practice. With many schools still operating with 20th Century models that disadvantage students, this book presents the deep knowledge, tools and strategies to better equip pre- and in-service teachers and leaders to make inclusive education a reality in all schools.

Where we have seen positive examples of school transforming to be more inclusive, this is also often lead by the school leaders, the principal. Leadership in this regard can have a remarkable impact on the individual teachers and others roles and processes within the school community.

On the basis of the above, we are pleased with and encourage the Parliamentary Committee to call on the NSW government to accept and implement Recommendation 7.8 Workforce capabilities, expertise and development.

(h) the resourcing available to educational settings and educators, including infrastructure, to support the needs of children and young people with disability in New South Wales

It is essential NSW has full School Resource Standard funding for government schools with adequate disability loadings and a time responsive system to fund improvements to infrastructure to support the needs of children and young people with disability. Some parents have also commented on the need for transparent reporting on how the Integration Funding Support is applied for each child.

Whilst we appreciate resourcing is important to support the needs of children and young people with disability, funding is an issue but not a standalone one. We caution the Parliamentary Education Committee not to believe that funding is the silver bullet solution to all of the issues faced and to factor in the influence of the school's culture and attitude of the school community to be inclusive. Lack of funding can be used as a scapegoat when a principal does not have the 'willingness' for this student to come to their school. But many times, we hear from families, funding barriers can be overcome when there is a "willingness" of the principal or positive attitude of the teacher to include.

The United Nations has called upon Governments that are signatory to the Convention on the Rights of Persons with Disabilities (CRPD) to adopt practical but progressive systems to transfer resources from segregated settings/ special schools into mainstream schools. For many years now, we have recognised that a dual system ties up much needed resources and keeps the expertise of our special educators from where they are needed the most: facilitating the meaningful and valued participation of students with disability alongside their brothers and sisters and neighbourhood friends.

We do not claim to be economic experts. But we can observe the figures revealed in Budget Estimates which show that rather than moving away from segregated education, \$1.154 billion was spent on segregated education in 2023, an increase of \$75.5 million from 2022 (\$1.079 billion). This is comprised of \$414 million for SSPs, an increase of \$15.7 million from 2022 (\$398.3 million); and \$740.4 million on support classes in mainstream or SSPs, an increase

of \$59.8 million from 2022 (\$680.6 million).

The desegregation of support units and schools for specific purposes can be supported by reallocating the \$1.154 billion and any additional funding that was due to be allocated in 2024 to SSPs, to measures that will progressively realise inclusive education.

<p>Receiving Recent Budget Estimates revealed: Total funding for all NSW public Schools for Specific Purposes for the last five years is:</p> <ul style="list-style-type: none"> • 2019 - \$302.6 million • 2020 - \$363.2 million • 2021 - \$375.7 million • 2022 - \$398.3 million • 2023 - \$414.0 million 	<p>Total funding specific to support classes in NSW government schools (mainstream or Schools for Specific Purposes) for the last five years is:</p> <ul style="list-style-type: none"> • 2019 - \$498.3 million • 2020 - \$560.0 million • 2021 - \$619.1 million • 2022 - \$680.6 million • 2023 - \$740.4 million
--	--

(i) the measures necessary to ensure the learning environment is safe and inclusive for all students, teachers and school support staff

Inclusive education. Generally speaking, safety comes where natural, freely given relationships exist²⁸. This is one of the most powerful aspects of inclusive classrooms. By being physically “seen” in the classroom day in and day out, the young person is perceived in the role “student” and this has the potential for an interpersonal connection, to be seen as “one of the kids”. Conversely, in segregated settings the young person is hidden away from most of their peers, occasionally might visit a mainstream classroom, but this young person is perceived as “other” and stigmatised with low social status. What follows is an absence for loss of natural, freely given relationships and substitution with artificial ones (paid staff/ support worker). We cannot underestimate the damage that can be done due to subconscious devaluation. When children are excluded from regular class, we set them up on a path of being “done to” their whole life. The inherent existence of devaluation means that vulnerability is heightened and safety is compromised.

Risks to safety such as abuse are discussed below. A research project commissioned by that Royal Commission into Institutional Responses to Child Sexual Abuse²⁹ presented about the prevalence and prevention of sexual abuse of children with disabilities in institutional contexts, found that:

“The current approach in Australia tends to focus on children with disability as a special group. In our view, there are distinct dangers in doing so. The most obvious is that responsibility for special groups is thought to reside ‘outside’ the mainstream. The converse is that the mainstream is ‘relieved’ of their responsibilities for children with disability. This is contrary to Australia’s obligations under CROC and CRPD.”

When looking at the ‘factors that increase risk’ and ‘drivers for abuse’, the research noted that ‘impairment does not of itself make a child or young person vulnerable’³⁰. Robinson (2012)³¹ noted that ‘other features in young people’s environments, relationships and the cultures of their communities may have a greater part to play in how vulnerable

²⁸ Valuing Lives, Wolf Wolfensberger and the Principle of Normalisation <https://rtc.umn.edu/valuinglives/>

²⁹ Royal Commission into Institutional Responses to Child Sexual Abuse Final Report in 2017

³⁰ Ibid. p 3.

³¹ Robinson, S (2012) Enabling and protecting: proactive approaches to addressing the abuse and neglect of children and young people with disability Children with Disability Australia, Clayton, Victoria (p 7).

(or otherwise) children with disability are to abuse and neglect than their impairment'. Other risk factors in relation to disability and the risk of sexual victimisation were mentioned in the grey literature:

- children with disability who require assistance with intimate care activities³²
- children and young people who require behaviour modification or management³³
- children who 'live or spend significant time in settings where they are expected to be always compliant and well behaved'³⁴; and
- children with communication, speech difficulties or high behavioural support needs³⁵

Given the tendency of the NSW education system to segregate cohorts of children with these risk factors, it follows that special schools and their surrogate support units in mainstream settings pose a significantly increased risk of harm and/or abuse. There is no evidence base to continue to support segregation. Current evidence and values of community inclusion no longer support this harmful model of segregation.

Within the inclusive learning environment, it is important each student, teacher and support staff have a safe person and a safe place to go when they feel unsafe. Where there are times when a student becomes unregulated, there is now so much research to empower a teacher on how to support the student to deescalate a situation by getting to know the child, being understanding and making reasonable adjustments³⁶. We would also encourage that all school personnel receive training in disability equity education, which could include topics such as getting to know the child, forming right relationships, understanding behaviour for a student with disability, trauma informed practices, restrictive practices and the harm they do, ableism and unconscious bias. For this reason, we encourage the Parliamentary Committee to call on the NSW government to accept and implement Recommendation 7.3 - Improve policies and procedures on the provision of reasonable adjustments to students with disability.

Employment representation matters. The current rate of teaching service with disability in 2022 was 2.7%³⁷, which is extremely low compared to the fact that people with disability make up 17% of the NSW population.³⁸ It is also significantly lower than the previous Premier's priority target of 5.6%, and has remained at this level for the last 5 years³⁹. Family Advocacy supports the Disability Royal Commission Recommendations 7.18, 7.19, 7.20, 7.21 and 7.22, and calls on the NSW Government to commit to the targets for disability employment in the public service at 7% by 2025 and 9% by 2023.⁴⁰ It is excellent that these extend to all levels of government and include targets for people with cognitive disability and require public reporting.

Create an Inclusion/Well Being Index. No need to reinvent the wheel. We suggest the creation of an Inclusion/Well Being Index, drawing on what already exists and tweak them to suit the NSW context. The benefit of this approach is that ALL children benefit from an inclusive approach, not just children with a disability.

³² Robinson, S (2015), 'Preventing abuse of children and young people with disability under the National Disability Insurance Scheme: A brave new world?', Australian Social Work, 68(4): 469-482.

³³ Frohmader, C & Sands, T (2015) Australian Cross Disability Alliance (ACDA) Submission to the Senate Inquiry into Violence, abuse and neglect against people with disability in institutional and residential settings. Australian Cross Disability Alliance, Sydney.

³⁴ Robinson, S (2012) Enabling and protecting: proactive approaches to addressing the abuse and neglect of children and young people with disability Children with Disability Australia, Clayton, Victoria, p.12

³⁵ Children with Disability Australia (2015) Issues Paper 9 – Addressing the risks of child sexual abuse in primary and secondary schools Submission to Royal Commission into Institutional Responses to Child Sexual Abuse Series Editor, Institution, Victoria.

³⁶ [Public Service Commission Workforce Profile Report 2022](#):

³⁷ [Australian Bureau of Statistics, Disability, Ageing and Carers, Australia: Summary of findings](#) (2018 data table 'People with disability by state or territory of usual residence') section, last accessed 17 November 2023,

³⁸ [NSW Government, Public Service Commission, Diversity](#), last accessed 16 November 2023, Strategy set - [NSW Government, Department of Planning, Industry and Environment, Diversity and Inclusion Workforce Strategy 2021-5](#), last accessed 12 October 2023,

³⁹ [Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report, Volume 7, Inclusive education, employment and housing; summary and recommendations](#) (2023), last accessed 11 October 2023

It would be very possible to develop something very useful drawing on the [UK Index for Inclusion, developing learning and participation in schools](#), [Inclusive schooling IQ](#) (Julie Causton), [Signposts for School Improvement: Inclusive Education](#) (Queensland Department of Education), [Queensland School Autism Reflection Tool](#), [Autism Hub](#) (although through the lens of Autism, it is easily applicable across disability generally.), the Disability Standards for Education 2005, relevant research, and the broader work toward inclusion. We suggest engaging the expertise of [Inclusive Educators Australia](#) (IEA) to create an Inclusion/Wellbeing index.

(j) the impact of policies regarding suspensions and expulsions

Children and young people with disability should not be disciplined because of their disability. To their credit, the Department of Education's submission with the Disability Royal Commission made the admission "the suspension rates for vulnerable students in NSW are too high and disproportionately so for students with disability"⁴¹, strongly pointing to systems failure. Our advocacy enquiries from families in relation to multiple suspensions due to lack of reasonable adjustments have continued to rise year after year.

The official position of the NSW Department of Education Student Behaviour policy says suspensions are not designed to be punitive, but rather to give the school, student and parents time to put strategies in place to help avoid a similar situation in the future. However, the parents we hear from do not see any changes occurring in the process, the environment or the way their child is understood or considered and yet they are expecting a different result from the child. This is unreasonable, unfair and ineffective and is on constant repeat. There is also no research evidence that the general use of suspensions reduces the disruptive classroom behaviour and the research shows that suspension may exacerbate challenging behaviour for students with disability or trauma (Graham., L).⁴²

"My child with disability was regularly suspended in the mainstream, was "kicked out" to the support unit, then "kicked out" to the special school then "kicked out" of the special school. The enrolment hours were reduced to part-time without any recourse for appeal or any attempt to get to know my child, understand their disability, make reasonable adjustments or communicate effectively. I found out he was locked in a room by himself and this was extremely traumatic. He has been suspended for more than the allowable days and clearly very little education.

I am on the verge of a breakdown. I complained to the Minister and it bounced back down the line to the Department District office. There is no sense of due process or proper remedy or genuine care for my child's well-being or education."

- **Parent**

Recent Budget Estimates⁴³ reveal in 2022, 15,385 students with disability were suspended. This comprised of 11,800 in mainstream schools, 2893 in support units, 692 in schools for specific purposes (special schools).

These statistics challenge the common myth that "special school" and "support unit" means better for students with disability. Parents are convinced by Principals and teachers that being choosing these segregated settings, their child will be safer and learn better with lower staff: student ratios. One would expect the rate of suspensions to be low to negligible. Instead, the number of students with disability suspended as a proportion in these segregated settings is higher than in the mainstream system. This suggests special schools and classrooms are not as great as is being presented to parents. This also suggests strongly that our schools are not providing what's required to support its students.

⁴¹ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability Public Hearing 7 - Education Questions on notice - State of New South Wales – 16 July 2021

⁴² <https://research.qut.edu.au/c4ie/2020/10/15/what-does-exclusionary-discipline-do-and-why-should-it-only-ever-be-used-as-a-last-resort/>

⁴³ Budget Estimates 2023-24 Hearing – 24 October Supplementary Questions; p102-106

My child would get suspended regularly. I would question what is the antecedent to the behaviour. Often, I would not be told the whole story. It would become clear that my child's needs were not being met, or it was from not understanding him as a person first, his developmental needs were not being recognised, and/or not enough care had been provided to him, being expected to do things he did not have the capacity to do. If the teacher had recognised my child's behaviour was his way of telling her something, a form of communication, there may have been a different end result. No kid wants to be in trouble.

We found a very insightful psychologist who taught the teacher that time out for my child is unhelpful, suspension will embed the behaviour, the child needs support not punishment. Using words like violence is stressful and unhelpful. For a child with severe ADHD and Autism, if they are feeling elevated, it is important to have a safe space to go to such as the library and a safe person to talk to, to build a strong relationship with an adult at the school.

To the school's credit, they took the psychologist's advice and after a long process of teacher/parent collaboration, my child is happy and calm, attending full time hours, maturing as he feels he is in a secure environment that is supporting him. The teacher has a personal passion for different learning styles, made incredible accommodations for our child such wobble chairs, or making the alphabet out of 3D foam so my child could learn in a tactile way. My child is thriving. Behavioural issues were a daily occurrence. Now they are just every now and again.

- Parent

"My child with disability was suspended more than 10 times in 3 school terms. It was over the same issue which was a direct result of their disability. Communication was poor and the complaints system was unhelpful. Nothing changed after each suspension and so the cycle continued. This crushed any sense of self confidence, desire to learn and any trust in the school. I would now place him in the school refusal or school can't category. Without proper communication between home and school, or a genuine attempt to make reasonable adjustments, they didn't stand a chance!"

- Parent

Of particular concern to us is the number of students suspended more than once in 2022 was 12,977 (K-2: 639; Yr3-6: 1347; Yr7-9:7894; Yr10-12: 2583)⁴⁴. Looking at first versus repeat uses of exclusionary discipline tells us a lot. Repeat incidents are where we find the students for whom suspensions and exclusions do NOT work. Oftentimes this is because exclusionary discipline is being used inappropriately and against a student who has not yet acquired the skills necessary to comply or who may never be able to comply because the rule itself is discriminatory, when applied to them. Given that getting in trouble is not a very nice experience, don't you think these kids would avoid it, if they could?

A six-year longitudinal study investigating the development of severely disruptive behaviour funded by the Australian Research Council⁴⁵, observed these children and watched what they were getting in trouble for. It wasn't "violence", although it would often end up described that way. Much of what was construed as violence was, especially in prep, the inadvertent result of poor spatial awareness, poor self-regulation, and lower oral language competence. The study explains eleven reasons why exclusionary discipline does not work and we encourage be read by the Parliamentary Education Committee.

We recommend the Student Behaviour Policy needs to include a mechanism which triggers an investigation where a

⁴⁴ Ibid.

⁴⁵ <https://research.qut.edu.au/c4ie/2020/10/15/what-does-exclusionary-discipline-do-and-why-should-it-only-ever-be-used-as-a-last-resort/>

student is suspended more than three times in order to ensure the student is afforded any reasonable adjustments which they may not be receiving and to give the school an opportunity to build their inclusive capacity. We also recommend that there must be an independent complaints mechanism to capture policies and practices that fail many students in this process.

A common scenario is where the child with disability gets into trouble as they adjust to their new environment on Day 1. On Day 2 the child is getting into trouble for not sitting on the floor. This is for children with a known diagnosis for which concentration and attention are challenges. These types of issues whereby the child is a square peg being asked to fit into a round hole. By week 4, the child is threatened with suspensions and by week 5, the child is suspended. Our advocates who take the enquiry calls by very upset parents have been working for Family Advocacy for 5 to 15 years are so frustrated as they continue to hear the same types of things happening all over NSW year after year without any systemic reforms being adopted by the Department of Education. This highlights the need for an independent complaints process discussed in m) below.

The impact on the student, the cost to families both financial and social, cannot be underestimated. The consequences of these suspensions do not stop with the event, as often a child is then 'labelled' as bad, troublesome, violent, and this may carry through with the child for their entire schooling, often setting up expectations with educators and others to expect the worst from this child. There are reports of many families resorting to home schooling after multiple suspensions in primary school. This has a flow on effect on a family's income capacity, as well as an impact on a child's academic and social learnings.

For all the reasons discussed above, we are pleased with and encourage the Parliamentary Committee to call on the NSW government to accept and implement Recommendation 7.2 - Prevent the inappropriate use of exclusionary discipline against students with disability and Recommendation 7.3 - Improve policies and procedures on the provision of reasonable adjustments to students with disability.

(k) the impact of policies regarding the use of restrictive practices

Students with disability are more like to have restrictive practices and seclusion imposed upon them.⁴⁶ Unfortunately, the NSW Department of Education does not currently hold centralised data on the use of restrictive practices in schools⁴⁷. We believe this is necessary and a violation of human rights and has been endorsed by the Disability Royal Commission Recommendation 6.36 - Immediate action to provide that certain restrictive practices must not be used.

Family Advocacy continue to hear of examples of restrictive practices and the use of seclusion in education settings⁴⁸:

- **mechanical**, such as devices that limit a person's movements and this includes the removal and/ or disengagement of mechanical supports that assist the person's movements. For example, tying a child down to a seat with a belt, confined to makeshift cages/ locked playgrounds separated from all the other children
- **seclusion**, such as the sole confinement of a person at any time in any room where the doors and windows cannot be opened by that person, such as a "time out" or solitary confinement under the guise of a "sensory room"
- **environmental**, such as preventing free access to all parts of a person's environment or house. For example, being restricted to fenced-off sections of a playground, or being confined in one's wheelchair at the top of a hill which was marked off as the out of bounds area with the teacher's aide whilst all the other children played at the bottom of

⁴⁶ Poed, S., Cologon, K., & Jackson, R. (2022). Gatekeeping and restrictive practices by Australian mainstream schools: Results of a national survey. *International Journal of Inclusive Education*. 26:776 – 779.

⁴⁷ Budget Estimates 2023-24 Hearing – 24 October Supplementary Questions; p 107.

⁴⁸ We use the expanded definitions of restrictive practices, a combination of what was suggested in the *National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector*, as well as the [JFA Purple Orange report "Minimising and Eliminating Restrictive Practices: A Consultation for the ACT Government: Final Report" \(2017\)](#).

the hill.

- **social**, such as the imposition of sanctions that restrict the person's access to relationships/opportunities they value. For example, not being allowed to go on school camp, join a school extracurricula group or lunchtime group, being put in the library 'because they cannot cope with the playground', told to eat lunch separately in the classroom before joining their peers
- **chemical**, such as medications that blunt the person's emotions, cognition, and motor activity. For example, parents with disability being told by the Principal that for their child to attend school, and remain enrolled, the parent would need to subject their child to chemical restraints.
- **physical**, such as holding or 'pinning down' the student, parents observing unexplained bruises when their child comes home from school
- **psycho-social**, such as power control strategies which might include threats, intimidation, fear, coercion, discipline, or retaliation
- **organisational**, such as excluding the person from activities, and restrictions to the person's choice. For example, not allowing a child to attend excursions or school camp
- **communication**, such as with a communication device, not switching it on or switching it off;
- **decision making**, such as failing to provide options for supported decision making/self-advocacy
- **consequence driven**, usually involving the withdrawal of activities or items. The child being with diagnosed concentration difficulties being told that if they cannot sit still and complete the work, they cannot go out at lunchtime

It is well known that such practices can cause life-long wounding and trauma and distrust in the implementer of the restrictive practice and service. The use of restrictive practices is a breach of the right to liberty, bodily integrity, and freedom from torture or cruel, inhuman or degrading treatment or punishment, as per [Article 15](#) of the CRPD (Freedom from torture or cruel, inhumane or degrading treatment or punishment). We strongly reject the use of restrictive practices and seclusion.

Teachers and relevant school staff should be trained regularly on the appropriate use of effective alternatives to physical restraint and seclusion. Any use of physical restraint or seclusion must trigger a review and, if appropriate, a revision of behavioural strategies currently in place to address behaviour that causes harm to self or others. If positive behaviour strategies are not in place, staff should develop them. We encourage the Parliamentary Education Committee to support the Disability Royal Commission's Recommendation 6.36 Immediate action to provide that certain restrictive practices must not be used.

We draw the Parliamentary Education Committee's attention to the Disability Royal Commission's [Research Report – Restrictive practices: A pathway to elimination](#). Notably, one of the recommendations to eliminate restrictive practices is for governments in Australia commit to full deinstitutionalisation and desegregation of the living environments of people with disability (Recommendation 4). In education, this means ending segregation in systems that currently only apply to people with disability such as 'special' or support units in mainstream schools. Ending segregation of people with disability would align with violence prevention and safety enhancement approaches identified in the Royal Commission into Institutional Responses to Child Sexual Abuse. Yet another reason for the NSW government to adopt Recommendation 7.14 to gradually phase out segregated education settings.

We also include our submission on restrictive practices below:

[Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability - Submission No.5: Response to Restrictive Practices Issues Paper](#)

(I) the effectiveness and availability of early intervention programs

Overall, early intervention programs play a vital role in promoting positive outcomes for children with disabilities, and efforts to enhance their effectiveness and availability are essential for ensuring equitable access to services and supporting children's development and well-being. However, it is critical these interventions are not delivered in segregated settings such as Early Intervention Centres but rather interwoven into an inclusive mainstream pre-school setting. Early childhood educators can be upskilled by allied health professionals on the best way the child learns, which in the long term, is better for the educator, the child, the pre-school as a whole, and cost to the family. We must ensure the Early intervention centre is not the start of what has been coined “the polished pathway” whereby a person with disability is funnelled from one segregated setting to the next with each rite of passage, so from early intervention to special school or support unit/classroom to a day program or sheltered workshop to a group home.

It became obvious my young child had a good day whilst he was in an inclusive learning space in regular pre-school (where he was treated like a child first before a label) but not in the Early Intervention Centre (EIC), which was therapy based. I wanted him to be in a regular class at his local school but was pressured that he would be better off in the support unit (SU).

In term 1 of Kindy, he received an award for being the most inclusive child in the playground where all children, including from the mainstream, played together.

In term 2, they decided to restrict all the support unit kids to a sandpit with a locked pool fence euphemistically named “the sensory garden”. This is a form of social and environmental restrictive practice. He could not read or write by the end of the year. He regressed socially and academically. He displayed similar behaviour to when he attended the Early Intervention Centre. His speech went backwards, he would only grunt like when he was 3 years old. He refused to enter the classroom. He could not read or write. During this period, I started to learn about my child's rights and the legal obligation of the school. I decided to move him to a regular class in a mainstream. By the end of Year 2, he could read and write at peer level and when he is sick, his friends run up and tell him they missed him. The difference? The attitude of the Principal and teachers treating him like one of the kids and provide support where needed. See him as a person first and label after that. Staff have a collaborative working relationship with me with the focus on what is best for the child.

Parent of child with disability with First Nations background

Early childhood education and care settings

The early years of a child's development can impact their entire lives. While more than 80% of children and 78% of family or caregivers were made to feel welcome:

- 29% reported exclusion from excursions, events or activities***
- 28% reported bullying from other children or staff***
- One in five reported that their child had been refused enrolment***
- Nearly a quarter said their child had been limited in the number of hours they were allowed to attend***

Children and Young People Australia Education Survey 2022 - for families and caregivers of children and young people in school . Note: 28% of families that answered the survey were from NSW

We know from the lived experience of many families we come across, inclusion can and is being done well in some pockets. Where authentic inclusion has worked well for a child with disability, and over the years, the common theme to a positive inclusive experience has been the “will” of the early childcare centre to give it a go (mindset of a welcoming culture), the “skill” to provide the supports needed for the child to thrive, to see inclusion as a journey (a process not a target), and the willingness to collaborate with the family (positive partnerships, learning together).

Unfortunately, these positive stories are not widespread. For many of the families we hear from, inclusion is conditional upon the child’s ability to fit in. We share a case study and comments from a parent below of gatekeeping, segregation, suspension and exclusion. There are many more we can share. As may be gleaned, the cost to families – financial, emotional and social – cannot be underestimated. Many families have resorted to home schooling as the least-worst option. This has an impact on a family’s income capacity, let alone the impact on a child’s academic and social learnings and self-confidence.

Systemic discrimination exists before a child has set foot in an Early childcare centre. Children without disability and their families do not encounter these barriers. Instead, they are given a welcoming attitude with high expectations and a willingness to do what it takes to support that child’s learning and involvement. There is no question about this. Conversely, for those with a disability, this is not the case. The consequence of gatekeeping to both child and family are obvious. Rejection, stigmatisation, lack of educational outcomes, isolation, and low self-esteem. Far more needs to be done to teach and enforce the laws and policies prohibiting the prevention of enrolment of children, suspensions/expulsions, and forced partial enrolments.

(m) whether existing regulatory and oversight mechanisms are sufficient to protect and promote the rights of children and young people with disability, and protect those children and young people from abuse, neglect and exploitation

The Disability Royal Commission’s Recommendation 7.10 Complaints management suggests “State and territory governments should create or expand existing complaint management offices that operate within educational authorities at arm’s length from schools to help resolve complaints about schools, specifically complaints concerning the treatment of students with disability”. Family Advocacy encourages the Parliamentary Education Committee to recommend the NSW government accept and implement Recommendation 7.10 ensuring apart from being independent, it is also effective, accessible, transparent, safe and enforceable with legal remedies attached (as required to comply with international conventions, including the CRPD).

Many of the enquiries we hear are from families expressing the very real power imbalance that exists between the whole school system and the student/parent dynamic. Schools can exercise unfettered discretion. Even though the [Disability Standards for Education 2005](#) and the [Disability Discrimination Act 1992](#) have existed for a long time, there are still no effective polices in place to make sure students with disability have equitable access to a quality education. Schools continue to investigate themselves which leads to a potential conflict of interest. Parents are not given a voice in these processes.

The Disability Standards for Education are not taken seriously, schools are aware of their obligations but choose to break them by constant gatekeeping on enrolment and curriculum, and bully parents who hold them accountable to these standards. To me it is just paperwork with no power in it because the Standards are being ignored and schools continue to diminish their responsibility to the student and not take the Standards as seriously as they should. Need greater compliance and enforcement.

Parent

In cases where a parent does complain, our 2020 survey revealed 70% of parents were not satisfied with the current complaints process (27% very dissatisfied and 43% dissatisfied), with only 17% stating they were satisfied. Parents

expressed the current complaints mechanism lacks objectivity, accountability, transparency and timeliness. The principal backs the teacher, the regional office backs the principal, and so it goes up the bureaucratic line within the Department. A big problem lies in the complaints process not being independent. We hear in many instances where students are subject to repeat suspensions which, in the absence of an appeals process, are subject to limited oversight, monitoring and review beyond the school.

I hope change can happen if the Department are truly serious and actually want to change the way things are done. Firstly, it must start with not having the Department investigate itself when parents make complaints. This is simply not acceptable as you will never get fair or just outcomes to complaints made. There also must be 100% transparency throughout the complaints process, accountability and support for students and their families throughout the complaint process who have suffered trauma and abuse at School.

Parent who felt she had no choice but to home school as the school system failed her children

There is no independence to complaint systems. Parents of students with disability and students with disability are very vulnerable to the consequences of lodging complaints. Therefore, they tolerate harassment and victimisation that many others would not. The system is geared to the education staffer being presumed in the right, especially as the process is initially undertaken by the school itself. It could be vastly improved by an independent complaints process.

Parent

One of our families shared that after making a complaint about the school, she was refused access onto the school grounds. Unlike the consequence of a suspension against the student, the parent had no recourse or power in this scenario nor did the student have their issue addressed. For this reason, many of our families do not make a complaint for fear of any backlash on their child.

I had a significant fallout with the principal which involved more personnel above the chain last year, but I decided not to lodge an official complaint because it was evident that the system was in favour of the Department. We were concerned our daughter might be negatively affected.

Parent

A significant proportion of students and families continue to feel fortunate just to be enrolled in a school and thus are unlikely to complain for fear of retribution or placing their child at further disadvantage. Their confidence, for example, to seek to enforce the school's responsibility to adjust the curriculum, ensure the teacher uses strategies likely to engage the student, provide accessible transport for a school excursion and ensure that the school camp is held in an accessible venue, is balanced against their fear that they will be labelled a "trouble maker" or that their child will be victimised by staff who feel forced to implement a strategy they disagree with, not see as necessary, or perceived as "too much work".

Parents either make a complaint but feel they get nowhere, as there is a power imbalance with the Principal, so even if it gets passed up the line, the complaint eventually comes back down to the Principal. Often, we hear parents are too scared to complain for fear of retribution based on their experiences. It has been reported to us on many occasions that once a parent makes a complaint, there are negative consequences.

One parent recently reported after she made a complaint to the school about some reasonable adjustments to be made so her young child could be included, they were kept out of the classroom and school. As part of transitioning into Year 1, their Occupational Therapist's report recommended the child be supported to have time scheduled toilet breaks to avoid having any unnecessary, embarrassing accidents and any social stigma. To be as supportive to the school so as to not add pressure on the school and to provide security for her child, the parent offered to come in every lunchtime. But rather than follow the OT's recommendation, and working collaboratively with the parent, to help the child have success, the school barred the parent from entering the school.

The case study above also points to the requirement for schools to take heed of the recommendations of medical experts.

We also hear that if the complaint is escalated outside of the school, that this is investigated without further consultation with the person complaining, leaving many families in the dark around the merits of the outcome.

In Victoria, they now have an independent process for appeals of expulsions. In keeping with the principles of procedural fairness, a decision to expel a student can be appealed by the student or their parent/carer. One of the grounds for appeal is where "a student has a history of behavioural issues, and there is insufficient evidence of prior interventions designed to address the behaviour and support the student".⁴⁹ What is significant is the number of expulsions has dropped from 285 in 2018 to 185 in 2019.⁵⁰

We note we have previously provided this information to the Department of Education in 2021, where a complaints process project commenced (with a substantial budget we understand) but it does not seem to have eventuated despite seeking external consultants and rolling out a pilot project. The Department appears to a rotating door as far as staff retention so much so that our enquiries in relation to this project recently revealed that this project and the extensive work undertaken by Family Advocacy sourcing parents of children with disability to take part in individual sessions and focus groups on this topic, providing the consultant with information and parent's feedback we had heard over the years, as well as suggested solutions, was completely unknown to the Department relatively senior staff member. It is a waste of our time, and time poor parents plus a waste of the taxpayer's money to seek external consultants for this project and rolling out a pilot and not following through.

We would request the Parliamentary Education Committee make enquiries of the Department of Education for an update on this pilot project and when it will be rolled out across the State as it is desperately needed. As far as we have been told, since the new Student and Parent Exchange Directorate has recently been disbanded, the complaints process project has been moved to the "Operations group" and to date await to hear of any progress.

To strengthen the complaints practice in schools to provide a positive experience for students and families, we encourage the Parliamentary Education Committee to call on the NSW government to accept and implement the Disability Royal Commission's Recommendation 7.10 Complaints management.

Funding Advocacy

Due to the lack of an independent complaints process, families, caregivers and young people with disability need greater access to individual advocacy to support them to address inequitable access, unfair decisions, and promote inclusive education. In addition, the NSW government must also acknowledge the additional work that will be

⁴⁹ [Victorian Expulsion policy](#);

⁵⁰ <https://www.theage.com.au/politics/victoria/school-expulsion-rates-plunge-after-students-gain-new-power-to-appeal-20200819-p55n8l.html>

required to support people with disability through changes resulting from the Disability Royal Commission and NDIS Review recommendations. Economic evaluation of disability advocacy has found it an excellent investment, with advocacy returning a benefit of \$3.50 for each \$1 spent (Daly et al, 2017)⁵¹.

As part of the Disability Royal Commission, Taylor Fry and the Centre for International Economics were commissioned to report on current disability advocacy funding needs and to predict advocacy demand through 2028. Taylor Fry has reported that 75% of advocacy demand is currently being met, and therefore a 25% increase to existing funding through 2028 is an adequate investment to meet current demand. Taylor Fry also acknowledges a significant amount of unavailable data and reliance on assumptions to complete this work. This project did not involve consultation with any independent disability advocacy organisations (as far as we are aware). For this reason, we would suggest that it would be more accurate to say only 50% of demand is being met.

In any event, this 'capacity crunch' has been compounded over time by the growth of the NDIS and the reduction of accessible services. We are pleased with the Disability Royal Commission Recommendation 6.21 which seeks additional funding for advocacy programs. We encourage the Parliamentary Education Committee to call on the NSW government to consider ensure not just the perpetuity of advocacy funding but also increasing current advocacy funding levels by at least 25% to address the above capacity crunch.

An important side note, Family Advocacy has been conducting advocacy advice, support and advocacy leadership development as well as systems advocacy for over 32 years. However, due to a technicality with the nature of the Family Advocacy model, we are not considered an individual advocacy organisation and as such have had a lack of adequate access to the Department of Education funding in relation to these types of advocacy enquiries. We encourage the Parliamentary Education Committee to recommend that all relevant advocacy organisations gain access to the Department of Education advocacy funding (regardless of the technical wording it may have). As one of the majorly sourced advocacy organisations by families across NSW, it makes no sense that we are not consulted alongside specifically funded individual advocacy organisation funded by the Department of Education to support families to advocate. This has been raised at all levels without successful resolution.

(n) whether children and young people with disability should be included under the remit of the Ageing and Disability Commissioner

We do see there is a role for the Ageing and Disability Commissioner (ADC) to provide oversight mechanism provided the Commissioner has strong investigative and enforcement powers to ensure a parent has a genuine remedy, and not a toothless tiger like other agencies. Obviously, this will need to be adequately funded with clear purview of scope and expectations and would require considerable consultation to get that balance correct.

We note the ADC Act already has a function that includes children and young people with disability, "to monitor, assess, and report on the NSW implementation of the National Disability Strategy" (section 12(1)(h)) and "Education and Learning" is one of the Outcome Areas of this Strategy. There is also scope to extend this remit to the regulation and authorisation of restrictive practices (we note the draft Persons with Disability (Regulation of Restrictive Practices) Bill 2022 which is yet to be introduced to Parliament). In relation to reports about abuse, neglect and exploitation, NSW has a child protection system and as such would not support any duplication of this system.

(o) developments since the 2017 Upper House inquiry into education of students with disability or special needs in New South Wales

There have been some positive initiatives coming out of the 2017 Upper House inquiry. However, we did not believe the recommendations and their implementation went far enough. The issues that are being raised by families

⁵¹ Daly A, Barrett G & Williams R (2017), Cost Benefit Analysis of Australian independent disability advocacy agencies, Canberra: Disability Advocacy Network Australia.

suggest that the situation has not substantially improved with our education related inquiries over this same period have risen steadily by 25 per cent. These calls mostly relate to the same systemic issues around gatekeeping, a lack of reasonable adjustments which often lead to suspensions, segregation and low expectations with poor outcomes projected for many of these young adults as a consequence.

Our main critique of the 2017 Inquiry was the wording of “Recommendation 1 - That the NSW Government formalise a presumption applicable to all New South Wales schools that a child is to be educated in an inclusive mainstream setting, unless there are compelling individual reasons for other arrangements.” provided an exception rule rather than expressly requiring inclusive education. When read together with “Recommendation 10 - That the NSW Department of Education increase support classes in mainstream schools to adequately meet student need.”, mainstream classrooms have not had the impetus to become more inclusive when schools know the new support units will continue to house students with disability, effectively kicking the can down the road and allowing the status quo to continue.

Another observation we can provide are the NSW government supported for pre-service scholarships for special and inclusive education. We have been advised that one if the conditions are that upon completion the teacher has no choice but to work in a special school for five years otherwise they have to return the scholarship funds. This goes against the intentions of the intended reform which talks to a major issue of alignment with the objectives of the inquiry and initiatives to remediate this. We are aware that change across any system is difficult, however, when there is a misalignment with the intention and the actions taken, any approaches at successful change are significantly reduced.

Further as part of the 2017 Inquiry, the NSW Ombudsman tabled a Special Report to Parliament, Inquiry into behaviour management in schools ⁵². The inquiry was a major piece of work and was initiated as behaviour management in schools had featured in a significant number of complaints and other matters (including employment related reportable conduct) brought to the Ombudsman’s Office. That our advocacy enquiries have remained steady and continued to rise with the same issues suggests that the “Proposals for reform” in this report have not been implemented adequately, if at all.

As participants of the working groups following the 2017 Inquiry, it was very evident that if the future wasn’t clear nor would be the strategies to get there. We continue to be alarmed by NSW Education not utilizing an evidence-based description of what constitutes inclusive education, adopting strategies to remediate barriers that do not consider the internal barriers that work against this. Nor is this assisted by the revolving door of government staff attempting to grapple from a novice perspective on what change is required. From this perspective, the lack of positive reform is not surprising and comes with a high level of caution that this will again repeat itself if not approached differently.

(q) any other related matters

The important role of family and collaborative partnership with the school

Parents must be respected for their expertise in knowing their child the best, and as such be fully involved and listened to when it comes to the education of their child or young person with disability. We provide our submission to the Disability Royal Commission on the important role of family and the Family Advocacy model:

[Submission No. 7 to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: The important role of family and the Family Advocacy model](#)

Many families that have had a bad experience and then a good one, have credited the attitude of the principal and the competency of the teacher plus parent collaboration that are the key ingredients to success. Family advocacy was funded by the Department of Education to create [Conversations for Collaboration](#), a practical toolkit for

⁵² NSW Ombudsman report: . https://www.ombo.nsw.gov.au/__data/assets/pdf_file/0019/138151/NSW-Ombudsman-Inquiry-into-behaviour-management-in-schools.pdf

parent/teacher collaboration.

I was self-employed. I had to drop a project and clients and had to borrow money. It is impossible to work with all the school meetings and getting called in regularly to collect your child because there has been an incident. Before, my child was stigmatised as “trouble” and so there are no playdate invitations, so its isolating and we didn’t feel like we are part of the school community. Now, my child has positive days; he plays with other kids and we now interact with other families from the school. The attitude of the teacher had a huge impact on my child’s behaviour.

I would question what the antecedent to the behaviour. Often, I would not be told the whole story. it would become clear that my child’s needs were not being met, or it was from not understanding him as a person first, his developmental needs were not being recognised, and/or not enough care had been provided to him, being expected to do things he did not have the capacity to do. If the teacher had recognised my child’s behaviour was his way of telling her something, a form of communication, there may have been a different end result. No kid wants to be in trouble. We found a very insightful psychologist who taught the teacher that time out for my child is unhelpful, suspension will embed the behaviour, the child needs support not punishment. Using words like violence is stressful and unhelpful. For a child with severe ADHD and Autism, if they are feeling elevated, it is important to have a safe space to go to such as the library and a safe person to talk to, to build a strong relationship with an adult at the school.

To the school’s credit, they took the psychologist’s advice and after a long process of teacher/parent collaboration, my child is happy and calm, attending full time hours, maturing as he feels he is in a secure environment that is supporting him. The teacher has a personal passion for different learning styles, made incredible accommodations for our child such wobble chairs, or making the alphabet out of 3D foam so my child could learn in a tactile way. My child is thriving. Behavioural issues were a daily occurrence. Now they are just every now and again.

- John

On this basis, we are pleased with and encourage the Parliamentary Committee to call on the NSW government to accept and implement Recommendation 7.3 - Improve policies and procedures on the provision of reasonable adjustments to students with disability

Promoting Student voice and self-advocacy as part of the Supported decision-making framework

Disability Royal Commission Recommendation 6.6 - proposed a national supported decision-making framework to be adopted by states and territories, where people with disability would be supported to make their own decisions, where necessary (Recommendation 6.5). People with disability ought to be able to enjoy legal capacity on an equal basis with others in all aspects of life, as per [Article 12](#) of the CRPD. This includes the right to make your own decisions and to receive support to make decisions. We all learn decision making skills from practicing them in a small way from an early age and then gradually increasing their frequency and complexity with each rite of passage as one gets older. We believe it is critical to start the decision-making process as early as possible and support opportunities for student voice to be heard be woven throughout schooling life. This includes all forms of communication, whether it be in Auslan, or the use of a communication device.

Other relevant resources

[Australian Government’s Inclusive Education Exemplar of Practice](#) (2016) – This document contains exemplars of good practice in developing reasonable adjustments for students with disability in line with the Disability Standards for Education 2005 (DSE 2005). The Disability Standards for Education clarify the obligations of education and training providers and seek to ensure that students with disability can access and participate in education on the

same basis as other students.

The Standards cover: enrolment in education; participation in education; curriculum development, accreditation and delivery; student support services; harassment and victimisation. Each of the exemplars is a real story of an education provider working with students and their families to ensure a fair and inclusive experience in education. While the exemplars cover a range of education settings and student needs, the lessons learned are transferrable to educators, students and parents across the country.

A parent associated with Family Advocacy had her son included in this - [Mac's story](#).

[Access Symposium](#), which is a holding site created by Family Advocacy after our Inclusive Education Symposium with a grounding of information in education about what is inclusion, why include, how to include, changing mindsets, teacher impact, Australian examples.

[New Brunswick, Canada's Policy 322 on inclusive education](#). The inclusive education system in New Brunswick and Policy 322 on inclusive education issued by then Minister for Education and Early Childhood Development, Jody Carr in 2013 was recognised as a global exemplar at the 2016 Project Zero Conference. Policy 322 adopts the definition of inclusive education as per General Comment No. 4. and states the goal of Inclusive public education:

- Recognises that every child can learn.
- Is universal – the provincial curriculum is provided equitably to all children and this is done in an inclusive, common learning environment shared among age-appropriate peers in their neighbourhood school.
- Is individualised – the educational program achieves success by focusing on the child's strengths and needs, and is based on the individual's best interest.
- Is requiring school personnel to be flexible and responsive to change.
- Is respectful of children and staff diversity in regards to their race, colour, religion, national origin, ancestry, place of origin, age, disability, marital status, real or perceived sexual orientation and/or gender identity, sex, social condition or political belief or activity.
- Is delivered in an accessible physical environment where all children and school personnel feel welcome, safe and valued.

Currently, NSW has an Inclusive Education Policy which wants a "more inclusive" education system. We invite the Parliamentary Education Committee to call on the NSW government to go further and adopt a similar policy to Policy 322 which adopt the same definition of inclusion as General Comment No. 4 as well as these principles.