



Inclusive Educators Australia

INQUIRY INTO CHILDREN AND YOUNG PEOPLE WITH DISABILITY IN NEW SOUTH WALES EDUCATIONAL SETTINGS

HEARING – 23 APRIL 2024

SUPPLEMENTARY QUESTIONS - RESPONSES

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1. Is IEA aware of the Victorian Equal Opportunity Act 2010, which has a positive duty to take reasonable and proportionate measures to eliminate discrimination?

a. Several disability advocacy organisations have recommended NSW adopt a similar reform. What is IEA's view on this?

Inclusive Educators Australia (IEA) has some familiarity with state-based legislation instruments relating to people with disability. Our understanding of these instruments is cursory, as we primarily focus on legislation relating to students with disability and the education context specifically. This means that we are more familiar with instruments like the Disability Standards for Education (Disability Standards; 2005) and its applicability to our broad, national membership. However, we note that one shortfall of the Disability Standards is its failure to include a 'positive duty.' The inclusion of a 'positive duty' in legislation would support the realisation of proactive and affirmative action in education over current reactive and avoidant measures. In relation to students with disability and the education context, a 'positive duty' would shift the focus away

from timely, costly and ad hoc actions that are retrospective and often limited in their capacity, to more efficient and effective action that is proactive and focused on inclusion from the outset. IEA is therefore in support of 'positive duty' being part of NSW legislation reform.

2. Which recommendations of the Disability Royal Commission does IEA support?

IEA is a member organisation of the Australian Coalition for Inclusive Education (ACIE). ACIE organisations have previously written to the Honourable Prue Car MP, NSW Minister for Education, in relation to the Final Report of the Disability Royal Commission, and in particular Part A of Volume 7 in relation to Inclusive Education. Our response to this question is consistent with that letter, sent in October 2023 and titled 'Disability Royal Commission: Inclusive education for students with disability must include responsible transition and phasing out segregation'. In that letter the New South Wales Government were urged to adopt and implement Recommendations 7-7.14 in full and IEA continues to support this stance. IEA also issued its own media release on 30 September 2023 (see appendix) stating its support of Recommendation 7.14 in particular.

IEA is focused on supporting education professionals to advance quality, inclusive education practices. We believe that genuine inclusive education can only be achieved through a trajectory of continuous improvement and transformation of mainstream education practices simultaneously with a phased transition away from segregated approaches – that is, away from special schools, support units, and special classes where students are separated on the basis of disability. This means that IEA rejects Recommendation 7.15 in full. Recommendation 7.15 preserves segregated education for students with disability but proposes a range of measures aimed at ensuring regular interaction between students in segregated settings and those in mainstream settings. This approach is tokenistic and has been tried unsuccessfully for decades. It has been our experience that mainstream schools experience significant challenges regarding the necessary transformation needed for inclusive education to be realised due to the continued investment in segregated education provision and piecemeal and slow tinkering that distracts and deflects from genuine reform efforts. There needs to be a deliberate, planned and phased reorientation of education systems to provide the impetus and conditions for change.

While IEA acknowledges the timeframe proposed in Recommendation 7.14, in particular, to ensure there is sufficient time to implement reforms and support the capacity of the education workforce to realise its intent, we would like to see a more ambitious timeframe. A 28-year time frame is too long and will condemn another two generations of children and young people into a system where segregation on the basis of disability prevails. IEA believes that Australian education systems, schools, and educators are well placed to move forward with reform efforts in a more timely manner, and that constraints imposed by bureaucracy should be avoided to allow action to occur with urgency.

3. Were NSW to establish an independent complaints mechanism for families to raise issues within a school, what should this look like?

a. Would NSW benefit from establishing an office similar to Victoria's Independent Office for School Dispute Resolution?

IEA believes that an establishment of independent complaints mechanisms for families to raise issues is an important component in the realisation of inclusive education.

Families who are faced with discrimination and who have trouble with having the rights of their children met have limited avenues to raise and address such grievances. Having the opportunity to raise issues in a robust manner results in accountability.

Accountability is an important influence that when managed appropriately can support schools and educators to transform and improve practice.

We would like to see an independent complaints mechanism for families that is truly independent. Information provided to IEA has resulted in our understanding that the current Victorian offering, although titled as being independent, is in fact not independent of the Department of Education Victoria. It has been our experience, that when complaints mechanisms are operated by the parties that the complaints are about, results in processes that are not transparent, robust, or effective. Such mechanisms tend to result in outcomes that favour the defendant as opposed to the plaintiff which is counterintuitive to the intent. This is also not helpful for schools and educators who would benefit from appropriate direction and support to identify the need for, and receive guidance on, a transformation of practice.

Although a complaints mechanism would go some ways to ensure accountability and a transformation of practice, it is noted that our laws and education policies need to be

stronger. Students with disability and their families should not have to engage complaints mechanisms to access and enforce their fundamental human and legal rights. The deep systemic failures experienced by students with disability and their families in the education system should be addressed through fit-for-purpose legislation and policy, therefore minimising the need for students and their families to carry the burden of remedying discrimination.

b. Should the NSW Ageing and Disability Commissioner be resourced to proactively act to prevent discrimination against children with disability in our education system and ensure all children have an equal opportunity to learn in our schools?

As with part 'a.' above, IEA welcomes mechanisms that support the prevention of discrimination. However, we again raise concern as to how effective these mechanisms can be without underlying systemic issues being addressed at the legislation and policy level. We would like to see legislation and policy reform that aligns with Australia's human rights obligations to ensure an inclusive education system. This would ensure clarity of obligations and would provide direction for schools and educators to work proactively to prevent discrimination.

4. Some opponents of inclusive education argue that it is not possible for every single child with a disability to be accommodated in a mainstream school because of the extent of the adjustments required to meet the differing needs of each student with a disability. Would a 'single classroom' model intended to include all children regardless of their disability exclude the possibility of exceptions in certain circumstances? If so, what do you say to those people who argue that we cannot end segregated education on the basis that not all children can in their view be accommodated into inclusive education environments, even if they are well-resourced?

IEA believes that all students, including students with disability who have more complex learning profiles, have a right to receive an inclusive education as defined by General Comment No. 4. IEA advocates for reforms to build a single-tracked universally accessible, quality and inclusive education system that is responsive to the diversity of the entire Australian student population. In doing so, we are committed to building the confidence and

capability of the education workforce to ensure that the necessary scalable and sustainable change needed is realised across classrooms, schools and education systems.

IEA is comprised of members who are already committed to realising inclusive education, and who are already providing inclusive education practices in their contexts, despite the current limitations imposed by a parallel, dual-track education system. There are classrooms and schools, who in the current day, demonstrate that inclusive education is not only possible, but happening. They demonstrate that an end to segregated education is well within the capacity of schools, and that appropriate system level reform would only see further strength in this realisation at scale.

When referring to inclusive education, it is important for people to be clear on what it actually means and involves. There is considerable misunderstanding, misconception and misappropriation surrounding inclusive education provision. This misinformation alongside ensuring fallacies are regularly perpetuated by those with vested interests in the maintenance of segregated education, those that are concerned with defending personal choices and preferences, and/or those that have never experienced inclusive education and have limited and biased perspectives. For some, the proposition of inclusive education is seen as a personal and/or professional threat as it represents a significant paradigm shift away from what has been known, practiced, and experienced for many decades. Therefore, opponents of inclusive education often rely on singular, extreme examples of complexity, or sensationalised and hypothetical scenarios. Arguments against inclusive education often relate to a focus on poor practices or conditions in mainstream schools that are in fact not inclusive. The purported benefits and superiority of practices and conditions in segregated education settings often go unchecked and unchallenged. We're led to believe that segregated education settings provide practices that are unattainable and untenable by regular schools and classroom teachers.

We're also led to believe that 'special' practices delivered by 'special' teachers, in 'special' settings results in increased engagement, wellbeing and outcomes. However, the reality is, segregated education provision does not deploy practices that are in anyway more specialised or beneficial when compared to general quality teaching practices. Despite the increased level of resourcing, including smaller teacher to student ratios and access to more teaching assistants and specialised facilities, segregated education settings continue to experience significant difficulty with supporting and addressing complex and challenging behaviours. Many of our members have previously worked in segregated settings or continue to do so in a range of capacities, and they report experiences that are consistent with research findings that

demonstrate segregated education provision results in limited and poor educational outcomes, and increases in the likelihood of bullying, violence, neglect and exploitation.

Inclusive education is not a 'single classroom,' 'one-size-fits-all' approach, in fact segregated education provision is more consistent with this as it is focused on homogenous student groupings, low expectations curriculum that inhibits exposure to a broad range of knowledge and skills, limited peer interactions, and limited pedagogical and instructional approaches. Contrary, inclusive education involves the delivery of education to diverse cohorts of students who share common environments and who engage in teaching and learning episodes that are designed and implemented using flexible pedagogies and strategies, including universal design for learning and differentiated instruction. This results in diverse cohorts of students being provided with high-quality, rigorous curriculum provision that is accessible, that enables active participation and engagement, and that results in learning progress across a range of knowledge and skills. This is aided by the standards-based curriculum designs used within Australia which provide a developmental sequence of content that allows for the complexity of grade-level knowledge and skills to be adjusted. This results in teachers being able to deliver educational programs to diverse student cohorts that centre on common age-equivalent topics with varying access points, degrees of difficulty, and desired outcomes.

Inclusive education also involves intervention that responds to a wide range of academic, social and emotional, and behaviour requirements with increasing intensity and frequency. This is often facilitated through a Multi-Tiered System of Support (MTSS). MTSS is an evidence-based framework that organises and operationalises tiered support services within a school to respond to the diverse requirements of students. It is focused on providing high-quality, whole-class instruction that is calibrated and responsive to the broad educational requirements of entire cohorts (Tier 1). It then uses data, including screening and diagnostic assessments to provide more targeted supports and interventions, usually through short-term small group instruction that is aimed at addressing learning progress in a timely manner (Tier 2). It also provides increasingly individualised and intensive supports for students who require more significant and ongoing educational adjustments (Tier 3). Whole-class instruction and the provision of tiered supports and intervention are facilitated through collaborative planning and teaching conducted by classroom teachers and school-based support staff and is often enhanced through multidisciplinary collaboration with allied health professionals. This results in a comprehensive range of supports and services being provided to students in natural environments and contexts. Students do not have to leave or be separated for long periods or

indefinitely in order to learn. Reimagining supports and services and deploying them through, and extending from, regular classroom environments results in more efficient and effective delivery.

IEA acknowledges that the current investment in maintaining a dual-track system of mainstream and segregated education means that some students with disability, and in particular students with complex learning profiles, are not yet able to be authentically included in their regular school. It is essential to recognise that this is often a result of a lack of reform and a failure to provide personalised learning as a result of lack of access to appropriate knowledge, understanding and resources. Students with disability and students with complex learning profiles are already part of the education system. This means there is already a range of knowledge, understanding and resources available within the system, but too often these are not being deployed in inclusive ways. This needs to be reimagined in order to ensure that schools have ready access to what they need in order to include all students.

a. Are you concerned that a move to end segregated education could lead to the isolation of specifically children with more complex disabilities, in home schooling or in settings with a more limited group of peers?

If inclusive education reform is undertaken with clear and robust understanding and commitment that results in genuine transformation at all levels and across all areas of the education system, IEA is not concerned that a such a move could lead to the isolation of students with complex learning profiles. This is because such reform would ensure that the education system is redesigned to enable all students to equitably access and participate in education. We refer again to our points made in the section above regarding the prevalence of misinformation about what inclusive education is and involves. Our response above clarifies that inclusive education involves responsive, high-quality practices that increase in intensity and frequency with the aim of ensuring all students can be successfully educated together.

Recommendation 7.14 of the Final Report of the Disability Royal Commission, recommends a phased process to implement inclusive education. General Comment No. 4 specifically recommends that State Parties adopt a robust plan:

[...] detailing the process for the implementation of an inclusive education system. It should contain a timeframe and measurable goals, including measures to ensure

consistency. The Plan should be informed by a comprehensive analysis of the current context pertaining to inclusive education in order to provide a baseline from which to progress, including data on, for example, current budgetary allocations, quality of data collection, numbers of children with disabilities out of school, challenges and barriers, existing laws and policies, key concerns of both persons with disabilities, families and the State party.

This guidance, in combination with the experiences of education systems internationally who have pursued and now deliver inclusive education provision, provides for informed planning and action. It is essential that the progressive realisation to an inclusive education system is done based on evidence-based practice and research, is informed by the direct experience of students with disability and their families, and is led by suitably knowledgeable and skilled leaders.

- b. As we transition to an inclusive education model, is there a danger that those children who are ‘easier’ to include will be brought into the mainstream, relieving some of the pressure to end segregated schooling but exacerbating discrimination felt by children with disability left behind?**

We emphasise our points in section ‘a.’ above. Inclusive education reform requires a well-developed transition plan that should avoid piecemeal, ad hoc approaches that focus on particular students in isolation. Inclusive education reform should focus on all students and ensure that the requirements of students with more complex learning profiles are proactively identified and accounted for throughout reform efforts. This would avoid the danger of some students being denied access to an inclusive education.

- c. How do we plan to ensure that this doesn’t happen?**

See responses in part ‘a.’ and ‘b.’ above. Essentially, through robust, high-quality planning and action that is led by sufficiently knowledgeable and skilled leaders who can navigate complex change, withstand and weather the pressures of the status quo, and with rigorous monitoring and accountability measures.

- d. How can children from the Deaf community be fully included in mainstream education while respecting and encouraging their bilingual language needs?**

IEA's position is that the general education system needs to be inclusive of all students including Deaf students, consistently with the goal of Article 24 of the CRPD and General Comment No.4 . This includes ensuring access to sign language instruction in regular schools settings and the opportunity for Deaf students to connect with a broad range of peers, including Deaf peers and adults. The Queensland Department of Education is one example of how this is achieved across an education system.

5. In our inquiry we have heard evidence indicating that while people with disability overwhelmingly support inclusive education, parents and educators are more split on the issue. Why do you think this is?

The majority of the Board of IEA are education professionals. Our member network also includes over eight-thousand education professionals. We do not agree with the suggestion educators are more split on the issue. We find that the issues, along with the perceived split across the parent community are often misunderstood. It is our experience that there is considerable willingness and desire for inclusive education, particularly when people understand what inclusive education is and is not, its importance in relation to human rights and social justice, and the benefits that it provides. The split often results from a lack of confidence and capability, and a lack of appropriate professional support. Educators are often left to navigate and operationalise inclusive education with significant limitations. This results in workload intensification, feelings of inadequacy, an inability to provide necessary supports and services due to resourcing and facility limitations and/or rigid and inflexible policies and procedures. This positions inclusive education as not being advantageous, particularly amongst competing agendas and already strained working conditions and workforce challenges.

In a recent survey conducted across our network, educators from New South Wales indicated that the following points make it difficult for them to provide inclusive education:

- Lack of access to allied health professionals that are employed by the Department of Education and who are suitably knowledgeable and skilled in providing supports and services that increase the capability of teachers to include students.
- Limited time provided to engage in adequate planning and preparation, particularly collaborative planning.
- Discrepancies in the level and types of resourcing that is available to students and staff accessing/working within segregated provision versus regular classrooms.

- Lack of clarity across curriculum and assessment policies regarding inclusive practices and adjustments, and current advice and processes inhibiting the flexibility required.
- Lack of access to system level professionals with the capability and time to provide job-embedded support and coaching.
- School leaders who do not understand their obligations relating to the Disability Standards for Education, or how to lead inclusive education practices.
- Lack of access to high-quality, impactful professional development.
- Lack of partnerships with teachers who have lived experiences of disability.
- Lack of incentives to engage in inclusive school reform and a lack of acknowledgement and examples of schools that are leading the way.

There is also concern amongst current special education professionals, particularly those working within special schools, that inclusive education means their services will no longer be valued or needed and that their jobs and livelihoods are under threat. This is of course not true and not consistent with inclusive education reform. As mentioned in a previous response, the resources already provided across the education system in relation to students with disability, are needed, and will continue to be needed in an inclusive education model. Inclusive education reform is about the transformation and redeployment of current resources. The knowledge, understanding and skills of educators across all current offerings will need to be combined and developed in order to build collective efficacy and an appropriately skilled and capable workforce that can provide high-quality inclusive education practices. If we can alleviate the concerns of current special education professionals and build their understanding of what inclusive education is and involves and support them to imagine beyond the status quo, this would go a long way in addressing the perceived divide across the profession.

In summary, IEA does not believe that educators are split or that the hesitation that exists represents an inherent unwillingness for inclusive education. We instead believe that when we get to the crux of what is fuelling hesitation, it is that educators do not feel supported, and that issues which are far wider reaching than the inclusive education agenda are having a significant negative impact on the profession. The teaching profession is experiencing a national crisis. Much of what is creating this crisis would actually be addressed through genuine inclusive education reform.

6. How do we bring parents, educators and the broader public on board with a planned transition to inclusive education?

While there is fear and ignorance about a transition to inclusive education, there is also significant support. A planned transition would require strong leadership and a range of strategies focused on building knowledge, beliefs and practice through genuine engagement and partnerships across communities. Additionally, governments should allocate resources to provide comprehensive information that explains the benefits and practical aspects of inclusive education. Successful case studies should be showcased, and supporting evidence presented. Engaging the community in discussions about the planned transition would allow for concerns and misconceptions to be addressed through open dialogue and clear, evidence-based responses.

Ultimately, both parents and educators must be assured that effective measures will be put in place to equip teachers and school staff with the necessary skills and confidence to manage inclusive classrooms. This includes providing adequate resources and incentives to support the transition, offering comprehensive professional development and support for teachers, and establishing clear processes for educators to provide feedback and seek assistance.

There is an opportunity to engage and educate a large portion of the community that is not actively involved with school education. There are many Australians who are not familiar with nor understand the types and impacts of different education provisions, particularly for students with disability, and what that means for our young people and their futures. Many, if presented with facts and information would be shocked at what is, especially in light of what could be. Time is well overdue to shift the focus from 'why' to 'why not' and to engage the strengths of our context, that is, our access to wealth and resources, and our moral imperative and what it means to be Australian, to influence the hearts and minds of our nation.