

## Who we are

Square Peg Round Whole is a national grassroots group (although we have several state based chapters) focussed on systemic reforms based on a human rights based approach to education. Our community of member advocates are almost exclusively parents and carers of neurodivergent and disabled children, who come from all walks of life and bring a diverse range of experience and expertise. Many of us are also neurodivergent and disabled ourselves.

Our members are parents, but they are also teachers, doctors, researchers, lawyers, allied health professionals and disability support providers, who are raising children who are autistic, have ADHD, dyslexia, anxiety, giftedness, dyspraxia, epilepsy and trauma, among other conditions and disabilities. Although our member demographics are varied, their experiences of navigating schools are strikingly similar.

Our community was established by our founder, Louise Kuchel, just two years ago. Since then, we have grown exponentially and now represent around 2000 member advocates nationally. We have state specific chapters in almost every state, with plans to establish groups in all states within the next few months. Our 2000 members nationally are active and engaged in advocacy projects, and are strongly committed to seeing significant education reform within state and national education systems.

We are a committed collective seeking meaningful systemic change. We receive no funding, have no material or vested interests, and have no income generating activities. Our member advocates are all volunteers, who give willingly of their time, energy and experience because of our shared belief that every student in Australia deserves the opportunity to realise their potential throughout their educational career.

Throughout this submission, we have included direct quotes and feedback from our members on their experiences within Australian schools.

## What we believe

Our community is united through our collective belief in a human rights-based approach towards education reform.

Specifically, our member advocates subscribe to our core principles of:

1. Inclusive education: It is every student's human right to be educated alongside their same aged peers (both disabled and non-disabled), in the same classrooms and according to the same curriculum. Our belief in inclusive education is underpinned by the UNCRPD definition of inclusive education.<sup>1</sup>
2. The education system must replace the current model of behaviourism with neuroaffirming, culturally responsive, trauma sensitive models of care. Behaviourism based responses (including PBIS and PBL) should be phased out of schools and be replaced with neuroscience-based approaches such as Dr Ross Greene's Collaborative Proactive Solutions.
3. "Nothing About Us Without Us" – Autistic, neurodivergent and disabled voices must be heard in regard to issues and approaches that affect autistic, neurodivergent and disabled people, including young people in schools.

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<sup>1</sup> <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-24-education.html>

## General Comments on the Final Report and Recommendations of the Royal Commission into the Violence, Abuse, Neglect and Exploitation of People with Disability.

SPRW has followed closely the proceedings of the Royal Commission into the Violence, Abuse, Neglect and Exploitation of People with Disability (the DRC), and welcomed the release of the final report in September 2023. SPRW recognises the historical significance of the DRC, and that the instigation of a royal commission was the result of decades of advocacy and activism by disabled people and their allies. This report represents a landmark moment in the history of disability rights in Australia, and it is our deep hope that it signifies a turning point towards a more equitable, inclusive and accessible future for Australians with disabilities.

## Notes on Consultation and the development of the Australian Government Response.

Whilst SPRW recognises that some attempts at consultation have been made by the Australian Government prior to finalising their response to the DRC report and recommendations, we wish to express our concerns and disappointment around the nature and scope of this process, in particular, the very limited feedback detail, as well as the inaccessibility of the overall process.

We recognise once more that the Royal Commission represents the labour, advocacy and activism of generations of disabled rights campaigners, and presents a momentous opportunity to change the way disabled Australians are treated and experience life. This of all processes should have been thorough, rigorous, co-designed, accessible and robust consultation, designed to actively engage the genuine views, perspectives and input of disabled voices and the community of stakeholders. Being asked to select three of the myriad recommendation areas, and sacrifice equity in one area over another is simply unacceptable. We are disappointed and distressed that the proactive and meaningful efforts of the Royal Commission to uphold and centre disabled voices was not reflected in this, the vital next steps.

We urgently demand that no response is developed without immediate, disabled-led efforts to consult and communicate with disabled Australians and their community, in ways that reflect the significance of this moment and set a precedent for future government response. We are deeply concerned that the form, content and process of this consultation has been superficial box ticking at best, and that the overall messaging presented to the disabled community is that many of the issues addressed by the recommendations will go unaddressed. Disabled people do not deserve only three equity priorities from the Australian government; instead, transformative systemic change is needed to ensure full equity and inclusion.

Whilst this submission will focus on volume 7 of the final report, and the recommendations contained within this volume, we offer our general, in principle agreement and support for the agreed recommendations made within the DRC final report. The premise of this agreement relies on the immediate prioritisation of robust consultation and co-design, which should remain embedded in every step of design, implementation, delivery and review.

## **Recommendation 4.4 Future review of the Disability Rights Act**

We share the position of Commissioners Bennett, Galbally and McEwin, and support the imposition of duty on both public and private providers and entities. In addition, we share the position proposed by the Australian Federation of Disability Organisations in the “Report Card on the Final Recommendations from the Royal Commission into Violence, Abuse, Neglect, and Exploitation of

People with Disability” and call for the Australian Government to conduct a review within three years.<sup>2</sup>

#### **Recommendation 6.20 Interpretative declaration**

We support the position of Commissioners Bennett, Galbally, Mason and McEwin, who recommend that the Australian Government withdraw its interpretive declaration in relation to article 12 of the *Convention on the Rights of Persons with Disabilities (CRPD)*.

#### **Recommendation 7.14 Phasing out and ending special/ segregated education and**

#### **Recommendation 7.15 An Alternative Approach**

SPRW agrees in principle with Commissioners Bennett, Galbally and McEwin that inclusive education as required by article 24 of the CRPD is not compatible with the current dual track education system by which segregated schools are maintained. We believe that a robust, responsible and realistic desegregation strategy and process is vital to improving outcomes for persons with disabilities, and that desegregation is a human rights obligation imposed upon Australia under international human rights law. Whilst we support the call for full desegregation made under Recommendation 7.14, we disagree with the overly lengthy timeframe for this transition, and explore this point further later in this submission.

In support this, Professor Andrew Byrnes, in his legal opinion, found that there is no international right or obligation to support “parental choice to segregate” when asked about the rights under international human rights law of students with disability to inclusive education.<sup>3</sup> This also aligns with the CRPD’s recent “Guidelines on deinstitutionalization” where they called on governments to end all forms of segregation, including institutionalisation, and said that governments should refrain from using “choice” arguments to justify segregation on the basis of disability and that being forced to choose between services and support option that do comply with the UNCRPD is not a real choice.<sup>4</sup>

It is on this basis that SPRW rejects Recommendation 7.15 and the position of the Chair and Commissioners Mason and Ryan with regards to non-mainstream schools being a preference of some young people with disability and their parents or carers.<sup>5</sup> Our members, as parents of disabled children, many of whom are disabled ourselves, are deeply troubled by the use of the superficial mantra of “choice” by the Commissioners to defend its system of education in violation of the fundamental human rights of people with disability that Australia has promised to uphold.

We know that disabled people and their parents are not actually choosing to violate their human rights but that the rigidity and inaccessibility of the current mainstream schooling system has placed them in this difficult position. Being given the choice of local schools that are not inclusive and do not provide children with disabilities with the environment and supports they need to thrive and

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<sup>2</sup> [AFDO-Report-Card-on-the-Final-Recommendations-from-the-DRC-December-2023.pdf](#)

<sup>3</sup> [1] p.2-3, see <https://disability.royalcommission.gov.au/publications/public-hearing-24-andrew-byrnes-2020-analysis-article-24-crpdc-and-note-travaux-preparatoires>

<sup>4</sup> <https://www.ohchr.org/en/documents/legal-standards-and-guidelines/crpdc5-guidelines-deinstitutionalization-including>

<sup>5</sup> Final Report - Volume 7, Inclusive education, employment and housing - Part A Page 93

segregated settings that may provide more supports but in an environment that separates students on the basis of disability and perpetuates discrimination are not real choices. Improving the current mainstream system and incorporating more accessible alternative pathways for all students to obtain an education will benefit all learners, not just those with disability, providing the “choice” but doing so in a fully inclusive way.

SPRW also censures the decision by the Chair and Commissioners Mason and Ryan to refer to special or segregated schools as “non-mainstream schools” when expressing their own views, attempting to mitigate the negative connotation of the words special or segregated schooling. SPRW stands with all disabled people who have been abused, neglected and traumatised through the segregated schooling system. The actions of the Chair and Commissioners Mason and Ryan only perpetuates harm and diminishes the experiences of those who are still living with the pain and suffering from segregated schools. Obfuscation, through changed terminology, and superficial solutions, such as those in recommendation 7.15 An alternative approach, will not bring Australia any closer to an inclusive education system. Non-mainstream schooling is still segregated schooling.

### **Recommendation 7.30 Support the transition to inclusive employment**

We welcome the recommendation, with the additional requirements proposed by Commissioners Bennett, Galbally, Mason and McEwin as outlined in recommendation 7.32. We hold that ending segregated employment and eliminating subminimum wages is a non-negotiable target that the Australian Government must commit to and act upon as a matter of priority. We support the development of a National Inclusive Employment Roadmap, and reiterate our position that co-design should be embedded in this.

### **Recommendation 7.43 A roadmap to phase out group homes within 15 years**

We support the recommendation of Commissioners Bennett, Galbally and McEwin for the desegregation of housing, through the phasing out of group homes within 15 years. We note that Commissioner Ryan also endorses housing desegregation, however we cannot support the extended timeframe proposed in 7.44, preferring instead the more reasonable yet responsible transition deadline preferred in 7.43.

### **Comments on the lived experience of the DRC Chair and Commissioners**

SPRW holds the position that disabled voices must speak for the disabled community, and that where recommendations are split, that the position of Commissioners Galbally and McEwin must be given greater weight and influence. We urge the Australian Government to fulfil the promises repeatedly made to centre and uphold the voices of persons with disability, and to not allow the recommendations of non-disabled commissioners to be given priority over the position of the disabled community as represented by those Commissioners with personal lived experience of disability themselves.

We strongly believe that co-design with disabled people is a fundamental obligation of the Australian government when making any decisions around the implementation of the recommendations of the Royal Commission final Report. For that reason, we would urge that each and every recommendation must be implemented with robust consultation and co-design, and the implementation must be led by disabled representatives of government. We would urge the Australian Government to acknowledge and reflect on the representative identities of the Commissioners. It would be irreparably inappropriate, disappointing and shameful for the voices and recommendations of non-

disabled commissioners to be allowed to override the personal identity and experience of the disappointingly few disabled Commissioners.

### **Comments on Volume 7: Part A – Inclusive Education**

As a grassroots advocacy group focussing on barriers to inclusive education faced by neurodivergent and disabled young people in Australian schools, SPRW is extremely familiar with many of the issues discussed in Volume 7.

Our community of over 2500 member advocates came about because of our shared experience advocating for these students, in the face of the ableism, discrimination, neglect and failings that sadly, are all too common. Our member advocates value education highly, and believe that access to quality, equitable and inclusive education is a major factor affecting lifelong outcomes. Our disabled young people are entitled to the same high-quality of education as their peers without a disability at the same schools across all school sectors, however for far too long, this has been non-existent.

The contents of volume 7A are not merely facts, figures, and findings for our member community – they are their reality. Our member advocates are the parents, teachers and allies who see firsthand the impact of the current systemic failings on our young people. We are the ones who pick up the pieces when it falls apart. We are the ones advocating daily to give our children the slightest chance at equity and inclusion, working hard to collaborate with schools and educators to find ways to achieve our common goal – positive and productive schooling experiences that lead to engaged learners who have the educational foundations for the rest of our lives. We desperately want our young people to have access to inclusive education. We value it, we believe in it, and we hold hope that, with the commitment and action of Australian governments, it can be a reality. However – we are not there yet, and the recommendations of the DRC final report, and the subsequent responses of the Australian governments hold the power to make this possible or push it further away than ever.

We strongly agree with the DRC final report that “Australian schools do not consistently deliver an inclusive education that protects students with disability from violence, abuse and neglect,” and provide further detail on this below, in the context of our position on each of the recommendations made in Volume 7: Part A.

#### **7.1: Provide equal access to mainstream education and enrolment**

We note that the Disability Discrimination Act (1992) explicitly addresses the issue of enrolment discrimination on the basis of disability, and that the Disability Standards for Education also addresses this. Despite the legislative obligation imposed by existing laws, our members report significant barriers, discrimination and attitudinal challenges that impede upon students with disability enrolling in mainstream education.

Whilst we support recommendation 7.1 in principle, we note our concerns that without external monitoring, enforcement and accountability, further legislative protections will be insufficient to ensure equitable access to mainstream schooling without an associated shift away from segregated education with the ultimate goal of a fully inclusive education system.

We support the adoption of data requirements surrounding enrolment principles, and the implementation of processes to resolve enrolment disputes, but reiterate that these measures alone will be insufficient to ensure equity of enrolment access whilst a dual track education system remains.

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

We support recommendation 7.2 theoretically, however hold concerns that policy and principal measures alone will not be sufficient to adequately address the significant disparity in disciplinary rates between disabled and non-disabled students.

SPRW has explored the issue of discriminatory use of exclusionary discipline in our other submissions extensively, and analysis of available data indicates that nationally, students with disabilities are 2 – 4 times more likely to experience exclusionary discipline than their non-disabled peers.<sup>6</sup> Whilst we acknowledge that this recommendation addresses this concerning disparity, we strongly believe that without wider transformation of behaviour management systems within schools nationally, these discriminatory suspensions will continue.

One of SPRWs core beliefs is that a shift away from behaviourism (including PBS and ABA) in favour of neuroaffirming, culturally responsive, and trauma informed models, such as Dr Ross Greene's Collaborative and Proactive Solutions (CPS), students with disabilities and other vulnerable student populations will continue to be unfairly targeted and harmed by school behaviour policies and practices. This perspective is shared with many Australian educators, families and experts – the SPRW petition to implement CPS in the Australian school system has received massive popular support. As of the date of this submission, almost 23 000 Australians have signed the petition supporting this change.<sup>7</sup>

In addition to a shift towards alternative models such as CPS, we also strongly advocate for robust and detailed data collection on exclusionary discipline. Collecting detailed disaggregated state and regional data around the use of formal and informal exclusionary discipline, as well as publishing and monitoring this data, will encourage transparency and accountability, and allow for the identification of excessive use and accordingly, discriminatory and inappropriate usage.

In our recent submission to the Nation School Reform Agreement, we outlined the disaggregated data that should be collected and have detailed this further in Recommendation 7.11.

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

We agree with recommendation 7.3, in that we acknowledge the current gaps in policy and procedure and the consequential effect this has on the learning experience of disabled students. The experience of our members supports the findings outlined in this section; despite legislative obligations to provide reasonable adjustments and accommodations, and limitations on the grounds for refusal, this remains a significant issue for many students and a significant source of stress and disappointment for their families. Our members also tell us that the refusal or denial of adjustments

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<sup>6</sup> See for example; Senate Standing Committee on Education and Employment - The issue of increasing disruption in Australian school classrooms (March 2023) – submissions 49 & 38 [https://www.aph.gov.au/.../Education\\_and.../DASC/Submissions](https://www.aph.gov.au/.../Education_and.../DASC/Submissions); WA Parliament – Education and Health Committee – Inquiry into support for Autistic Children and Young People in Schools – SPRW WA – sub 40 (July 2023) <https://www.parliament.wa.gov.au/.../4E11DB398E902A4C4825...>  
VIC Parliament - Inquiry into the State Education System in Victoria - SPRW VIC - sub 209 (Nov 2023) <https://www.parliament.vic.gov.au/.../stateed.../submissions>

<sup>7</sup> [Petition · Stop the Aussie school system punishing vulnerable kids! · Change.org](#)

and accommodations is a major contributing factor influencing the wider experience of a young person in school, as well as a significant factor contributing to young people being unable to engage with education in the school system.

We overwhelmingly hear of are frequently approached for advice and assistance on barriers to the provision of reasonable adjustments and accommodations. Our members often reach out following initial attempts at advocacy themselves. The vast majority of those we hear from want desperately to work respectfully and reasonably at a local level to resolve problems, and are more than willing to discuss, negotiate and compromise when it comes to identifying what is fair to expect as a reasonable adjustment and accommodation. Parents often feel confronted by the vast difference in what the Disability Standards requires and what actually happens. It is, we are told, more common than not to be presented with an already drafted, often inappropriate documented plan or adjustment strategy, and asked to sign and rubber stamp approval rather than give feedback or offer collaborative input.

We agree that the provision of mandatory, high quality training is an important factor in ensuring that schools and education professionals are aware of their legal obligation to make reasonable adjustments and adhere with other guidance under the DDA and the DSE. We suggest however that training alone may not address the wider issue, and instead could foster further box ticking paperwork that has little practical impact on ensuring the student can access learning. We suggest that embedding inclusion goals within monitoring, reporting and reviews is an essential step to ensure that real action occurs.

Of primary significance, however, is the importance of gathering ongoing feedback from young people and their families, and hearing directly from students with disabilities and their families on whether they feel supported and able to access reasonable adjustments that are impactful and meaningful. Feedback mechanisms should be co-designed by people with disabilities to ensure that this process itself is accessible and inclusive. It is our suggestion that Disabled Persons Organisations specifically representing the voices of young people with disabilities (such as CYDA and YDAN) be requested to advise on design and accessibility protocols.

We strongly support the development of materials and guidelines relating to the various topics listed within this recommendation. Again, however, we must reiterate that for any of these actions to have any actual benefit, it must be a process of co-design by persons with lived experience from the relevant community groups.

SPRW explicitly acknowledges that any expansion of duties and responsibilities surrounding the provision of reasonable accommodations must also be accompanied by plain language, specific, clear and widely available information confirming the associated requirements such as collaboration, consultation, access to specialist support and

~~The major themes we have identified in relation to this issue are:~~

- ~~— Documented plans vary in quantity and efficacy, and are often written but not implemented, so as to support NCCD evidence requirements without actually ensuring support is provided.~~
- ~~— Many schools are reluctant to develop documented plans, instead relying on informal discussion or verbal agreements, which leaves parents with little paperwork should issues escalate and further action need to be taken.~~
- ~~— Rubberstamp consultation is shamefully common. The majority of our members tell of being presented with already written plans, the contents of which have not been discussed or even mentioned with families by the school. For many, the IEP meeting serves only as the venue~~

~~for the signing of an already designed and implemented IEP, which is often inappropriate and completely dismissive of the perspective and views of the child and the family (as well as in some instances, their specialist support professionals such as allied health supports). It is crucially important that robust provision be given to ensuring collaboration and consultation is undertaken meaningfully, to ensure that young people with disabilities and their families have an active say in designing the supports and adjustments/accommodations that will genuinely improve their equitable engagement at school~~

- ~~— Plans are often described to us as box ticking and generic with strategies or supports designed based on stereotypical views of Autism or other specific disabilities. Not every support strategy is appropriate for every child, regardless of whether or not other young people with the same diagnosis benefit. Classic examples of these strategies are social stories and visuals, despite there being many young people who find these strategies at best ineffective or useless.~~

#### Recommendation 7.4: Participation in school communities

The actions in this recommendation pertain to the continuance of a dual track education system and would not be needed if the recommendations under 7.14 Phasing out and ending special/ segregated education were implemented. SPRW believes that improving participation of disabled children in school communities is more complex than simply moving children closer, facilitating participation in school events and creating partnerships to encourage regular exchanges.

SPRW regularly hears from our members that school communities are not accessible for their disabled child, regardless of whether they are attending a mainstream or segregated school. This is due to the lack of adequate accommodations to promote participation. They are excluded from camps and excursions, blocked from extra-curricular activities and unable to attend whole-school events such as sports carnivals or assemblies.

We believe that this recommendation fell short of providing actions that would see a shift in the participation of disabled students in school communities. SPRW recommends that safeguards are in place to prevent students being unable to participate in school events and extra-curricular activities due to a school's unjustifiable resistance to provide appropriate supports

#### Recommendation 7.5: Careers guidance and transition support services

SPRW holds that a key cornerstone of an inclusive education system is one that prepares young people for lifelong experiences, and that education is a major factor in determining quality of whole life outcomes. Education is the foundation that allows young people to access paid employment, which provides economic security that enables access to other health and wellbeing domains such as housing, health and community participation. People with disabilities have the same fundamental employment rights as any other person – including the right to choose how, what and where they are employed, as well access to fair and equitable pay for work done.

Access to employment and economic security rely on access to relevant services and supports within the school system, including the same careers guidance, work experience opportunities and transitional programs for disabled and non-disabled students alike. Currently, students with disabilities do not have access to these supports, services and opportunities; instead, being limited by a system that imposes low expectations, minimal options and significant barriers to obtaining qualifications due to minimal skills and training opportunities offered.



Desegregation will be an important factor in addressing this equity gap – segregated facilities offer different curriculum, no access to formal recognition (such as assessment and high school assessment subjects required for entrance to university). This culture and attitude of low expectations and minimal opportunity is also endemic in mainstream schools.

It is for this reason, along with our fervent belief in full desegregation in all areas of life, that we urge the government to adopt the recommendation given by Commissioners Bennett, Galbally and McEwin, in addition to those outlined by consensus. We agree with these commissioners that there must be requirements imposed that require for inclusive delivery of careers guidance to all students on the same basis, regardless of disability status. We also believe that in order to prevent exploitation, stigmatisation and segregation, there must be a blanket prohibition on the referral of students with disabilities to ADE organisations.

#### Recommendation 7.6: Student and parental communication and relationships

We support this recommendation. We affirm that these recommendations must be implemented robustly, with particular consideration given to ensuring that they are accessible, appropriate, culturally safe and respectful to all stakeholders, including the many parents of disabled and neurodivergent students who are themselves disabled people with their own accessibility and support needs.

#### Recommendation 7.7: Inclusive education units and First Nations expertise

SPRW is not a First Nations led organisation, and we cannot speak for the First Nations disabled community. We acknowledge that in regards to First Nations expertise and representation, we unconditionally offer our allyship and support to First Nations organisations, advocates and individuals. We recognise the expertise and wisdom of this community and wholeheartedly urge the Australian Government to be guided by First Nations lived experience of disability in all aspects of their response.

SPRW supports the recommendation to instate inclusive education units within relevant departments. The usefulness of the inclusive education units is dependent on whether the advice given and resources developed prioritises the voices of those with lived experience from both the disability and First Nations communities. SPRW expresses concerns that 7.7 recommended the appointment of people with ‘expertise’ to the inclusive education units. We are unfortunately familiar with a disturbing trend in representative expertise being prioritised and privileged to the detriment of community voices. For this reason, we propose a minimum representation balance that ensures that a minimum of half of those providing expertise are representatives of community voices.

Echoing our stance on appointments and expertise throughout this submission, SPRW holds that it is of the utmost importance that the inclusive education units specifically target the expertise and employment of professionals with personal lived experience of disability at all levels, and that these units are designed and implemented with robust consultation with disabled peoples' organisations and advocacy bodies. We firmly believe that people with disabilities are best placed to develop, design and implement changes that will positively impact on students with disabilities.

#### Recommendation 7.8: Workforce capabilities, expertise and development

SPRW welcomes the recommendations and draws attention to our recent submission to the National School Reform Agreement Review, which has explored this matter in depth.

#### Recommendation 7.9: Data, evidence and building best practice

SPRW welcomes the recommendations contained within 7.9 Data, evidence and building best practice. Through our advocacy, we have also called for data definitions and data collection methods to enable consistent and comparable reporting on educational experiences and outcomes of students with disability. In particular, we applaud the call for disaggregated data by Nationally Consistent Collection of Data on School Students with Disability (NCCD) category, gender, age, stage of schooling, First Nations students, students from culturally and linguistically diverse backgrounds and LGBTIQ+ status).

Further to this, SPRW recommends that data is also collected and reported on the outcomes, experiences and barriers of disabled students disaggregated by enrolment in mainstream and segregated schools. The collection and monitoring of this data should continue for as long as a dual track education system exists.

SPRW agrees that the educational experiences and outcomes of students with disability as well as progress in addressing barriers to inclusive education should be monitored and publicly reported annually. However, we were disappointed at the ambiguity of recommendations with regards to addressing barriers to inclusive education. Along with data on exclusionary discipline and restrictive practices, that is explored further in comments to Recommendation 7.11, SPRW recommends that the following data is also monitored and reported:

1. Disaggregated attendance and retainment data, including:
  - a. Reasons for disengagement such as bullying, illness, mental health and school can't
  - b. In addition to the home-schooling data recommended in the report, the measure of students who have exited the schooling system in favour of home-school and the reasons as to why

SPRW is cautious about the recommendations in the section *Improving the evidence base*, as there are purported evidence-based practices, such as ABA, that are now known to be detrimental to the wellbeing of disabled people. Research identified and used to improve school practices must be balanced with the lived experience of disabled people.

#### Recommendation 7.10: Complaint management

It is our view that access to independent, impartial external oversight and complaint bodies is a fundamental prerequisite to safeguard and protect against abuse, exploitation, neglect and violence. As the Royal Commission into Institutional Responses to Child Sexual Abuse found, institutions are a high risk setting for young people, including young people with disabilities. SPRW consistently receives a high volume of communications from our members in relation to education issues and barriers facing students with disabilities and their families. Complaints resolution and the inefficacy, bias, complexity and delays involved act as a significant obstacle to fair resolution of issues, and thus, to students being able to access their education. We note that independence, transparency and external oversight (including publication of disaggregated detailed data) are essential to ensure fair and equitable access.

#### Recommendation 7.11: Stronger oversight and enforcement of school duties

SPRW strongly believes in a child's right to feel safe at school, this includes the right to attend school free of all forms of restrictive practices such as physical and environmental restraint and seclusion. We agree that to achieve the pathway to elimination of restrictive practices there must be stronger

oversight and enforcement of school duties to improve the safety of students with disability in Australian schools, particularly with regards to exclusionary discipline and restrictive practices.

Our members frequently contact us with concerns over their child's physical or mental wellbeing with regards to exclusion and restrictive practices. Many of these children carry significant trauma from their experiences at school. Often, these members have evidence of the abuse and neglect involving their child, and yet justice for their child is not forthcoming through the current channels, such as complaints management.

Whilst expanding the school registration process and compliance monitoring is welcomed, SPRW believes that the measures noted in the recommendation will bring little change. For the recommendations in school registration practices and compliance monitoring to be effective, there must be a clear and transparent mechanism set out for school registration authorities to deal with schools who do not meet the standard for inclusive education and pathways to bring them into line.

Undeniably, the school setting amplifies the vulnerability and risk faced by young people, particularly children with disability, however despite widespread acknowledgement (including the Royal Commission into Institutional Responses to Child Sexual Abuse), there remains almost no protection or safeguarding measures to prevent or minimise treatment that, in any other setting, would be unquestionably prohibited. We firmly hold that elimination of restrictive practices must be the target outcome, whilst urgently calling for interim measures to address restrictive practices within education, to ensure oversight and accountability, such as the restrictive practices protocols recently introduced by the Department of Communities.

Currently, there is no legal requirements beyond policy that recognise and regulate restrictive practices against children in schools. What NDIS defines as segregation, isolation and restraint, Departments of Education disguise as "positive handling", "safety corraling", physical contact (or the preferred terminology for what in the community would be assault – unreasonable physical contact of a student).

The implementation of monitoring, definition, accountability and regulation of these harmful practices against the most vulnerable people in our society (children with disabilities) must be an immediate priority that is given urgent attention. Further, understanding a school's performance in upholding their duties, requires extensive data to be collected and reported. This data can no longer be hidden away and discussed behind closed doors. It is in the Australian public's interest to understand how widespread and endemic the use of exclusionary discipline and restrictive practices is for students with disability. SPRW recommends that the following data is collect and reported:

1. Exclusionary discipline disaggregated through NCCD as stated above in comments to Recommendation 7.9, including:
  - a. All types of exclusionary discipline, such as short and long suspensions, exclusions, and expulsions.
  - b. Number of incidents, number of students excluded, proportion of students, total number of days excluded, average length of exclusion, and number and proportion of students with multiple exclusions.
2. Disaggregated restrictive practices and behaviourism data, including:
  - a. Number of students and proportion of students affected by restrictive practices.
  - b. Type of restrictive practice such as chemical, mechanical, physical and
  - c. environmental restraint and seclusion.
  - d. Duration, total and average, of restrictive practices

- e. Number of schools practising PBS and other similar behavioural approaches such as Positive Behavioural Interventions and Supports (PBIS) and Applied Behaviour Analysis (ABA)

#### Recommendation 7.12: Improving funding

We agree with recommendation 7.12, and the general position that there must be greater scrutiny, accountability and transparency around funding allocation, including the obligation for expenditure to be directly associated with supporting students with disabilities. We note, however, that simply assigning a dollar amount to students with disabilities may serve to perpetuate a narrative of inclusion as an economic pressure on school budgets, given the persistent misconception of funding of one student coming at the cost of others. It is essential that practical and actionable measures are identified and implemented to counteract this narrative, as well as to ensure all students are able to access a quality, equitable education with access to the supports, accommodations and adjustments they need to engage in learning on an equal basis as their non-disabled peers.

We also suggest that consideration be given to the current challenges linked with allocating funding amounts per student. We note that research, testimony and our member experiences all reflect that assigning funding amounts to individuals can unintentionally create further difficulties in accessing supports and accommodations. When students are allocated a funding level individually, any funding eligibility refusals or mismatch between support needs and funding level assigned serves as a justification to refuse on the basis of funding availability.

A clear and irrevocable message must be given to states, departments, schools and the community. There can be no opportunity to exclude students on the basis of individual funding allocation, and entitlement for extra funds cannot be subject to departmental criteria and eligibility.

Although we hold concerns around funding policies and protocols contained within the recommendations, it is unquestionably true that improvements, progress and transformation require resourcing. Inclusive classrooms in inclusive accessible schools require each and every school to be fully funded, with reasonable class sizes to allow for teacher planning and delivery. In order to deliver inclusive, accessible quality teaching to all students, teachers must be given the time, training and knowledge, support and employment conditions to enable them to be excellent teaching professionals. Time, resources and capacity must all be addressed, and measures taken to address teacher workload, job conditions and classroom demand.

#### Recommendation 7.13: National Roadmap to Inclusive Education

An inclusive education can only become a reality for disabled students with a gradual shift away from segregation towards full inclusion. This process must be done responsibly, robustly and with a whole system approach that aims for true inclusion, not integration. Sustainability and successful inclusion for the students of the future must remain central, as without thorough, careful and strategic transformation, it will be integration, not inclusion and the human rights of disabled students will continue to be violated.

SPRW fully endorses recommendation of a national roadmap that will drive the change towards an inclusive schooling system underpinned by transparency and accountability. We again emphasise the importance of co-designing the roadmap with disabled people and intersecting marginalised groups, especially those with lived experience of segregation, isolation and discrimination in the Australian schooling system. SPRW highlights as an

example, the Australian Coalition for Inclusive Education's "*Driving change: A roadmap for achieving inclusive education in Australia*".<sup>8</sup>

#### **Recommendation 7.14 Phasing out and ending special/ segregated education**

Whilst we fully support the proposed phases outlined in 7.14, we cannot accept that Australian disabled students remain segregated and isolated for another 28 years. Although the process of desegregation and systemic transformation must be thorough, robust and responsible, it must also be prioritised with an ambitious timeline for change. As noted above, as members of ACIE, SPRW strongly believes that the action plan and timeline documented in *Driving change: A roadmap for achieving inclusive education in Australia*.<sup>9</sup> As a community, we can and must end education segregation for the next generation of disabled students for whom segregation will never be a possibility.

This transformation is an integral component of improving outcomes for disabled students, as well as ensuring that all students receive the quality inclusive education that is their human right and the obligation of government to provide in accordance with the CRPD. A clear and definitive strategy and action plan for inclusive education is a powerful measure to ensure an inclusive Australia.

#### **Recommendation 7.15 An Alternative Approach**

We deny and reject the disappointing and harmful attempts to perpetuate segregation and continue to maintain a school system that violates the human rights of Australian children with disabilities. We unequivocally reject the position that inclusive education can occur in segregated systems, and hold that whilst we continue to isolate, other, segregate, devalue and deny disabled people, it remains impossible to address the devastatingly widespread neglect, abuse, exploitation and violence against this community. We ask the Australian government to recognise the gravity and significance of the Disability Royal Commission as a landmark moment for Australian disability rights, and to uphold the views of the disabled community, who have fought long and hard for the full realisation of the human rights guaranteed by the CRPD.

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<sup>8</sup> <https://acie.org.au/acie-roadmap/>

<sup>9</sup> <https://acie.org.au/acie-roadmap/>