

**INQUIRY INTO THE PROVISION OF EDUCATION TO  
STUDENTS WITH A DISABILITY OR SPECIAL NEEDS**

**Organisation:** NSW Ombudsman  
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**Position:** Ombudsman  
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# NSW Ombudsman

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The Director  
General Purpose Standing Committee No 2  
Parliament House  
Macquarie Street  
Sydney NSW 2000

Dear Director

## **Submission to the Inquiry into the provision of education to students with a disability or special needs**

This submission is based on observations and issues identified in the course of my office's complaint handling work and from our work in the disability area.

There are obvious challenges in introducing and maintaining effective systems and supports in a large and geographically dispersed education system such as that in NSW. I do not intend to comment on the adequacy or appropriateness of the particular types of support the Department of Education and Training has in place for students with a disability or special needs. Rather my observations are primarily about the need for robust systems to monitor access and delivery of those programs and supports across the state.

### *Monitoring of complaints and identification of systemic issues*

Complaints are an important tool for identifying problems, analysing the frequency with which they occur and implementing system wide responses to common difficulties. The department has in place comprehensive complaint handling guidelines which provide clear information to departmental staff about how to manage and resolve a complaint. If followed, the guidelines should assist staff in managing complaints effectively. However, there is no system in place to record the numbers of complaints received across the department about a particular issue. This means the department is unable to monitor the number of complaints made about the support provided to students with a disability.

We appreciate there are challenges in the central collection of data in a department which has numerous sites across the state and, for historic reasons, has various computer systems some of which are incompatible. This means that while the department's current guidelines enable complaints to be addressed locally and generally provide good access for complainants, the decentralised complaint system means it is difficult for the department centrally, or even regionally, to identify systemic issues and share information about approaches that work well.

Central collection of complaint information would enable the department to determine, amongst other things: the numbers of complaints made about the provision of support to students with a disability, the issues raised in those complaints, how well or otherwise



individual complaints are being resolved and whether there are system-wide issues with particular programs and support mechanisms which need to be addressed.

As far as we are aware the department has no other systems which allow it to monitor centrally how effectively or otherwise the supports it offers to students with disabilities are being delivered on the ground.

#### *Understanding the needs of students who are suspended from school*

As part of the disciplinary process, students can be suspended from school. We are aware there is a general acknowledgement in the department of the importance of distinguishing if behaviour is related to a student's disability and that disruptive behaviour arising from a disability should not be dealt with via the disciplinary process. However, classroom teachers also need to balance the needs of other students whose education may be being interrupted by inappropriate behaviour whatever its cause.

While the suspension procedures require principals to take into account if a student has a disability and the developmental level of the student, it is unclear how the department can currently be assured that behavioural issues related to a disability are not erroneously being dealt with through the disciplinary process. We have brought this issue to the department's attention as part of an investigation into its policy and procedures for long suspensions.<sup>1</sup> The department responded constructively to all of the recommendations we made but, having reviewed the data currently being captured about suspensions, advised that no further information could be extracted using the current process without it becoming too onerous for schools.

Complaints we receive continue to suggest that at least some students with disabilities are being suspended as a result of behaviour which is related to their disability. The following case studies are indicative of these issues:

#### ***Case study 1***

*A high functioning student with Asperger's syndrome had spent little time in the class room due to the frequency of his suspensions. In Year 2, of the 185 school days he was in partial attendance for 52 days and suspended for 37 days. In Year 3, he was in partial attendance for 49 days and suspended for 52 days. In 2009 his parents decided to home school their son and his academic achievements improved but they were concerned he had no social contact with his peers. Following our involvement the local school agreed him could attend school for a limited time so he could access social opportunities.*

#### ***Case study 2***

*A seven-year-old Aboriginal student with an intellectual disability and challenging behaviour was suspended in early 2009 for a continuous period of three months. He was eventually given a short term placement for one to two hours a day at a community centre. Despite his parent's dissatisfaction with this arrangement, it continued for the rest of 2009. Following our intervention, arrangements have been made for him to rejoin school this year and we are monitoring how his return to school is managed and supported.*

As part of a review it conducted of the current data collection process, the department has advised that a new system which may be introduced in the future may facilitate the collection

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<sup>1</sup> NSW Ombudsman Annual Report 2007-2008 page 134-135

of an increased range of data. However, we remain concerned that currently the department has no way of knowing if behavioural issues related to a disability are being dealt with through the disciplinary process because adequate support is not available.

I trust the above is of assistance to the Inquiry and await with interest the Inquiry's conclusions.

Yours sincerely

A handwritten signature in black ink, appearing to read "B. Barbour". The signature is written in a cursive style with a large initial "B" and a long, sweeping underline.

Bruce Barbour  
Ombudsman

1/2/10.