

Submission
No 345

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

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

People with Disability Australia Incorporated (PWD) is a national peak disability rights and advocacy organisation. Our primary membership is made up of people with disability and organisations primarily constituted by people with disability. PWD also has a large associate membership of other individuals and organisations committed to the disability rights movement. PWD was founded in 1981, the International Year of Disabled Persons, to provide people with disability with a voice of our own. We have a cross disability focus - we represent the interests of people with all kinds of disability.

PWD welcomes the NSW Legislative Council's General Purpose Standing Committee No. 2 Inquiry into the Provision of Education for Students with a Disability or Special Needs. PWD will address some longstanding issues and concerns that PWD has about the NSW Education System for students with disability in the remainder of this letter. The issues and case studies highlighted in this letter have been drawn from PWD's extensive experience in supporting people with disability, their families, carers and associates through our range of services, including our Individual and Group Advocacy Service.

We also wish to highlight our support for the comprehensive submission provided by Family Advocacy which addresses a number of key issues and recommendations for change.

Key Issue 1: Human Rights Framework to underpin Education

In 2008 Australia ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) which requires governments to ensure that people with disability are afforded the conditions and opportunities that enable them to participate equally in all aspects of social and community life. The right to education which is inclusive, directed at full development of human potential, via effective individualised support measures to maximise

academic and social development, on an equal basis with others in the communities in which they live, are fundamental human rights addressed within the CRPD. For many students with disability, however, this is far from their experience.

Whilst the Australian Institute for Health and Welfare's statistics show that most Australian children with disability who are enrolled in school attend mainstream schools, this is not a true representation of the success of the inclusion of children with disability. The case study below demonstrates that inclusion requires more than simply being located within a mainstream school. Equally important is full curricular inclusion and social inclusion which ensures academic, social development and participation on an equal basis with others.

X Street School prides itself on providing mainstream, inclusive education for children with disability. It has a number of teacher aid staff, has undergone significant modifications, such as having ramps and a lift installed to address access issues within the school environment, and supports a number of children with various disability support needs.

The following scenarios represent the experience of some of X Street School's students. Many observers would regard these children as being successful recipients of inclusive education because they attend, and are accommodated within their local school. The reality however, are choices, opportunities, and educational outcomes unequal to their peers because of cultural, physical and systemic barriers common to the NSW Education System.

Physical Inclusion/Exclusion

Sarah is a young girl with cerebral palsy. Last year, for the first time, Sarah could not go on her class excursion to the Powerhouse Museum because the buses transporting the children were not accessible. Unlike when she was in infant's school, her teachers can no longer easily lift her on and off the bus. Sarah was also unable to attend the school athletics carnival because the athletics stadium, canteen and toilet facilities were not accessible.

Social Inclusion/Exclusion

Milly is a young person with Down Syndrome. Last year, her year group learnt folk dancing. Whilst the rest of her peers danced with one another, rotating partners around the dance circle, Milly partnered her Support Aid Teacher on the outside of the group.

Curricular Inclusion/Exclusion

Jackson is a 5 year old with moderate developmental disability who started kindergarten at X Street School this year. Despite the allocation of support funding for a teachers aid position for Jackson, he is still waiting on the appointment of this person. To date, Jackson has been attending school for a month without the support required to adequately meet his needs. His parents have not been informed as to when this position will be filled.

It is our belief that inclusive education is a worthwhile aim for not only people with disability but the diversity that is represented in society generally. Whilst inclusion is essential if students

with disability are to have the opportunity to be valued members of their communities, it is also the only approach likely to redress the social disadvantage, stigma and discrimination commonly associated with culture, class, ethnicity and/or other factors which suggest difference. As highlighted in the Family Advocacy submission in greater detail, 'attempting to include students with significant educational and behavioural challenges tells us a lot about the way in which our schools are unimaginative, under resourced, unresponsive and simply inadequate. Full inclusion did not create these problems, but it shows us where the problems are. It reveals the manner in which our education system must grow and improve to meet the needs of all students'.

In light of our views on inclusive education, we would also like to take this opportunity to address the provision of Special Schools for children and young people with disability. This model of education has been the subject of PWD's advocacy for many years and given we work within a human rights framework with specific reference to the CRPD, PWD does not support education provided in segregated settings such as Special Schools, whether they are state, private or independent schools.

Key Issue 2: Adequate resourcing and support services

Whilst the Government policy clearly states that all children with disability (including those with a severe disability) have the option of receiving a quality education through their local neighbourhood school, the reality of this choice falls far shorter. Consequently the needs of many children with disability are not currently adequately supported through mainstream education options. Many parents of the children with disability supported by PWD have expressed their outrage and frustration that Government policy is little more than rhetoric, especially when their kids suffer abuse and neglect, have limited educational outcomes and poorer futures as a result their educational experience.

The case study below highlights the story of Joe, a 10 year old boy with severe disability. This story is provided to the Inquiry as we believe it illustrates the experience of many students with disability who are victims of inadequate staffing levels and resources, poor staff practices and a lack of attention to individualised teaching methods. These factors, in turn, result in a lack of duty of care, abuse and neglect, and poor educational outcomes for many children with disability. PWD believes this case study is representative of the common experiences of students with disability within the NSW Education system.

Abuse and Neglect

Last year whilst Joe attended a special school, in a small class group with a teacher and a teacher's aide, another student also with disability, forcefully bit Joe on the foot, deeply cutting into the skin. This led to hospitalisation, many antibiotics (which further destabilised his sensitive health status) and many weeks off school and work for his parents to care for him.

Neither the teacher nor the aide said they witnessed this incident, despite there being a staff to student ratio of 1:3. Even though Joe's parents requested information at the time of the incident, they were not provided with a copy of the incident report until many months later, and only following a complaint made to the Australian Human Rights Commission. Nor were they provided with information about the health status of the other child as requested by the hospital to assist them with treatment of the open wound sustained from the bite.

Lack of attention to individualised teaching methods

Joe's wheelchair had been fitted by an Occupational Therapist (OT), with a tailor made tray. This specialised equipment aimed to ensure his participation in educational activities and maximise learning opportunities whilst being as independent as possible with school tasks. When it came to school holidays last year, Joe's parents requested the tray come home so they could continue his learning, however the school claimed it was already at home. This was not the case. On further investigation the parents were shown a tray which the teacher and aide said they had been using at school. This tray did not fit onto his wheelchair but rather balanced on Joe's lap, giving it no stability or rigour to ensure its effective use. The parents concluded that no or limited learning opportunities had been going on for Joe since the loss of his tray. His right to an education has been severely curtailed without the right equipment individualised to his needs being used.

Inadequate staffing levels and resources

Joe also has his liquids via a peg tube into his stomach, although can eat small amounts of food orally. On several occasions Joe's feeds have been in his school bag at the end of his day. On these occasions he has arrived home dehydrated and tired due to lack of liquids. No satisfactory answers were provided to Joe's parents when they asked for an explanation. However off the record, they were told that teacher's aides no longer had to do peg feeds as part of their job. Furthermore, since 90% of their day was taken up providing personal care such as toileting for the students, there was little time for other duties or educational tasks.

Lack of choice

Despite all of the above, Department of Education and Training (DET) officials have told Joe's parents that this is the best school available to meet his needs because of its high staff to student ratio, specially trained staff and facilities for students with special needs. Joe's parents continue seeking better educational facilities to better meet Joe's needs and educational aspirations, where he will be safe, free from harm and abuse and in a positive learning environment where duty of care is paramount for a student as vulnerable as Joe. Their preference is that Joe's educational needs be provided in a mainstream school.

Limited resources and funding for inclusive education means that many children with disability receive a compromised education. The case study provided in box 1 above, for example, is as much a statement about our schools being unimaginative in addressing the needs of its students as they are of the under-resourcing indicative of the NSW Education System. The failure of mainstream placements is not evidence of the failure of the principles of inclusive education but rather evidence of inadequate resourcing. Below is another case study which is evidence of the daily reality experienced by children with disability and their families who require specialist support but continue to be restricted by limited resources or alternative choices.

Darren aged 9 is enrolled in his local school in a mainstream class. He has a range of disability support needs including Attention Deficit Disorder, Oppositional Defiant Disorder, Anxiety and developmental delay.

Darren has had numerous school suspensions over the years – including several 20 day suspensions for violence. To date, the only reason Darren’s mum has been able to continue working is because her employer has allowed her to take extensive unpaid leave to stay at home with Darren while he is under suspension.

It has been recommended that Darren be supported in an Emotional Disturbance Unit as his current school lacks the appropriate support to meet Darren’s needs. His family have been told however, there is no such placement is available in the semi rural area in which he lives. Meanwhile his suspensions continue and Darren’s educational progress and outcomes are limited.

We call on the NSW Government to overhaul its education system so that students with disability and their families have access to adequate resources and support to receive an education in a manner that meets their individual needs and fully respects their human rights.

Key Issue 3: Suspension and Expulsion of students with disability

Disciplinary action triggered by behaviour associated with a child’s disability is a common issue and subject of many of PWD’s individual advocacy cases.

Whilst the DET suspension and expulsion procedures are prefaced with statements that seek to ensure that no student is discriminated against on grounds that include disability, and those factors such as age, individual needs and any disability or developmental level of students must be taken into account when implementing the policy, the practice, as seen in many of PWD’s individual advocacy cases, appears contradictory. PWD supports the view expressed by Family Advocacy in its submission that ‘where behaviour is a result of disability, the school has a responsibility not only to assist the student to modify his/her behaviour but also has a responsibility to examine its own policies and practices that may contribute to the unacceptable behaviour of the student’.

The case study below is provided for a dual purpose. Firstly to demonstrate that all too often students with disability bear the consequences of behaviour which can be linked to inadequate teacher training and limited understanding of specific types of disability and communication techniques. Secondly to show that with adequate specialist support for individual needs and proper planning and resources, more effective student learning and participation can be achieved.

Jared is 10 years old, and to date he has attended three different primary schools and spent more than half his school career on suspension. Jared has multiple impairments including Asbergers, Attention Deficit Disorder, Attention-Deficit Hyperactivity Disorder, Oppositional Defiant Disorder, severe Anxiety and Depression. Jared’s impairments are often characterised by behaviour which requires individualised management strategies.

Partway through 1998 Jared was placed in an Emotional Disturbance Unit (ED Unit) so that he could access more specialised support including behaviour management strategies but suspensions continued. One example situation is when Jared was being suspended as a result of him swearing at the teacher, a behaviour which arose when he was angry or frustrated. Nothing was done to find out why Jared was behaving in this way, to calm him down when he arrived at school appearing angry and frustrated or to teach him more acceptable ways to express his anger and frustration. Instead he

was suspended, often before 9.30am, for his bad behaviour. It turns out that Jared was having problems with another child in the taxi on his way to school.

Discussion with Jared's mum Maureen, and a review of school records regarding Jared's ongoing suspensions seem to indicate that:

- the school failed to recognise that Jared's conduct was part of his disability and communication style;*
- no attempts had been made to understand why Jared was acting as he was;*
- no individualised program with specific targets and strategies were in place for Jared; and*
- the teacher in the ED Unit was finding it very difficult to manage not only Jared but also several other children in the unit.*

Given Jared's ongoing suspensions and Maureen's lost confidence in the school's and DET's ability to meet Jared's needs or to give him a fair go, she withdrew Jared from school and commenced home schooling.

In October 2009, a different Welfare Officer was allocated Jared's case. She quickly grasped the issues including that the misconduct was due to the lack of individualised management strategies, that suspension was not an appropriate/useful strategy and in the absence of other more appropriate strategies, could be seen as discrimination. She has worked with Jared's new classroom teacher for 2010, the School Principal and Maureen to develop a return to school plan for 2010. This plan has attendance, behavioural and academic goals.

Maureen now feels that she is now part of the process and able to trust this Welfare Officer and also Jared's new teacher (which has not been the situation in the past).

For the last 4 weeks of school term in 2009, Jared attended school until the morning tea break to address his socialisation needs and to work 1: 1 with Miss B (his teacher for 2010). This has allowed Jared and Miss B to get to know one another, and for Miss B to be able to appropriately assess Jared's learning and behavioural needs.

So far in 2010, Jared has been attending school until the end of morning tea break each day. Review processes are in place with the aim to extend Jared's school attendance gradually over term 1. Jared is feeling supported and is enjoying his transition back to full time schooling.

Our key recommendations for the Inquiry include:

- The NSW Government to lead the nation in adopting and implementing inclusive education principles and practice reflecting the Convention on the Rights of Persons with Disabilities for all students with disability.
- The NSW Government to take immediate action to allocate the resources necessary for all students with disability to receive individualised inclusive education options in mainstream schools.
- Staff at all levels of the education system are educated in disability awareness, the use of appropriate augmentative and alternative modes, means and formats of communication, different educational techniques and materials to support students with disability.

- That the DET Procedures for the Suspension and Expulsion of Students (2004) are immediately revised, including guidelines and training for schools so that they have a greater understanding of the appropriate considerations required when applying the policy to students with disability.

For more information on this submission please contact Sonya Price-Kelly, Advocacy Projects Manager, on 9370 3100, via sonyapk@pwd.org.au .

Yours sincerely



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