

**INQUIRY INTO STUDENTS WITH A DISABILITY OR
SPECIAL NEEDS IN NEW SOUTH WALES SCHOOLS**

Organisation: Australian Education Union New South Wales Teachers
Federation Branch

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SUBMISSION TO

The NSW Legislative Council

ON

**Inquiry into the provision of education to students with disability
and special needs in government and non-government schools in
New South Wales**

Authorised by

**John Dixon
General Secretary
Australian Education Union New South Wales Teachers Federation Branch**

25 February 2017

Preamble

The Australian Education Union New South Wales Teachers Federation Branch (the Federation) is the state registered trade union representing teachers in New South Wales public pre-schools, infants, primary and secondary schools, Schools for Specific Purposes, teachers working in consultant/advisory positions, teachers in Corrective Services and teachers in NSW TAFE. The current membership totals over 66,000 practising permanent, temporary, part-time and casual teachers and student teacher members.

The Federation welcomes this inquiry and does so with renewed hope that it will trigger urgent action toward improving the learning opportunities of students with disability to deliver the life-long benefits that should be gained from schooling.

In welcoming this inquiry, the Federation echoes the Australian Education Union's (AEU) acknowledgement:

despite numerous official reports over the past decade identifying serious deficiencies in the education of young Australians with disability, very little has changed" (Australian Education Union, 2015, 1).

The Federation recognises that there are a number of significant federal and state based initiatives that have brought the needs of people with disability into sharp focus, such as the National Disability Insurance Scheme (NDIS), the Nationally Consistent Collection of Data (NCCD), the National Disability Strategy 2010–2020, the review of the Disability Standards 2005, the Review of Schools Funding, the National Education Reform Agreement (NERA) and the NSW Department of Education's (the Department) Every Student, Every School (ESES) learning and support framework.

However, the public resources needed to ensure that the underlying principles and aims of these initiatives are met in a way that is sustainable and that delivers real improvements for young people with disability, have not been delivered. Genuine investment has been inadequate or non-existent.

The issues raised by Federation members in schools make clear that too many students with disability are being denied fundamental rights due to inequitable access to necessary support. As a result, they are missing out on improvements to their learning outcomes, wellbeing and future lives.

The inadequate provision of education to students with disability cannot continue.

Table of Contents

Preamble	2
Values Statement.....	4
Key Issues	4
Recommendations	5
Introduction	7
Current national levels of access and attainment	9
Terms of Reference	10
<i>a. equitable access to resources for students with a disability or special needs in regional and metropolitan areas.....</i>	10
<i>b. the impact of the Government's 'Every Student Every School' policy on the provision of education to students with a disability or special needs in New South Wales public schools</i>	16
<i>c. developments since the 2010 Upper House inquiry into the provision of education to students with a disability or special needs and the implementation of its recommendations</i>	24
<i>d. complaint and review mechanisms within the school systems in New South Wales for parents and carers, and any other related matters</i>	30
<i>e. any other related matters.....</i>	31
References	35
Appendices	37
Appendix 1	
NSW Teachers Federation Special Education Policy	
Appendix 2	
Public Education: An Inclusive System of Provision for Students with Disability	
Appendix 3	
AEU submission to the 2015 Senate inquiry into current levels of access and attainment for students with disability in the school system and the impact on students and families associated with inadequate levels of support	
Appendix 4	
NSW Teachers Federation Submission to the Legislative Council inquiry into the provision of education to students with disability and special needs, 2010	
Appendix 5	
Learning and Support Teacher and Assistant Principal Learning and Support role descriptions	
Appendix 6	
University of Sydney Research Report: Learning Support in NSW Public Schools	
Appendix 7	
Expenditure Review of the Department of Education and Training (DET) – Initial Scan	

Values Statement

The Federation and all its work is founded on the belief that a well-resourced public education system has the potential to develop actively engaged, resilient and connected individuals who lead lives with hope as productive members of the wider community. To do this for all students, that system must be one which values diversity, understands social and cognitive development, reaches out to all learners through inclusive processes and is responsive to fundamental human needs

Key Issues

Every student has the right to receive an education of the highest quality and the Federation holds the goal for all students to become successful learners. Accordingly, Federation calls for the full implementation of Gonski, including the Students with Disability (SWD) loading, withheld by the Federal Government since 2015, to deliver the interventions necessary for every student to succeed.

The *Review of Funding for Schooling* (Gonski et. al., 2011) found disability to be a factor of disadvantage proven to have a significant impact on educational outcomes. The National Education Reform Agreement (NERA) between the Commonwealth and State Governments, which was developed based on the recommendations of the report, includes the SWD loading that allocates additional funding required to support student achievement for those affected by this factor of disadvantage.

The Parties agree that needs-based funding arrangements that take account of the specific circumstances of students, individual schools and systems are an important way to minimise disadvantage and to facilitate a high quality education for every student in every school. (Council of Australian Governments, 2013, 17)

There has been a slow but necessary paradigm shift in viewing and delivering on equitable quality education for students with disability in the context of a social or human rights model of disability. The aim of securing equitable funding is not simply for add-ons to fix perceived ‘problems.’ Additional funding is not about creating further segregation and otherness by layering short term supports onto an inflexible education system grappling with meaningful, multi-modal and accessible learning for diverse learners. Instead, what can deliver those outcomes is a strengths-based system-wide approach, supported by adequate resources, which focuses on the interaction between the student and their environment and which responds proactively to the impact of social emotional factors and factors of disadvantage on learning.

In the Federation’s view, the aim of additional funding is two-fold: supportive and supported teachers and schools, within a supportive and supported system. All of which requires investment. Additional resource and legislative and policy requirements are necessary to support the ongoing development of attitudes and behaviours across the profession which promote the wellbeing of all students and champion their right to rigorous and orderly learning.

Additional and targeted funding is needed to:

- engage teachers in ongoing professional learning, reflection and dialogue, led and complemented by educational leadership that fosters a culture that goes beyond homogenisation to diversification, where,
 - individuals with disabilities fall along a spectrum of difference and the convention of the “regular” student disappears as a normative model* (Meyer & Rose, 2005, 9)
- provide the time and processes required for relationship building, collaborative planning and development of flexible learning design
- establish and maintain technologies, environments and specialist interventions, not merely for inclusion within the current norm, but which stem from an understanding of difference, to remove existing barriers from the outset.

More specifically, the Gonski needs-based funding model paves the way for equitable access to inclusive, quality public education for all students by providing the resources necessary to:

- improve early detection systems and early intervention programs
- facilitate the delivery of a broad, inclusive curriculum and learning and support adjustments
- strengthen initiatives to address and promote mental health, safety and wellbeing
- increase the resourcing of specialised settings and enhance specialist provision
- provide support for students and settings at different transition points
- foster parent and community engagement partnerships and strategies (NSW Teachers Federation, 2014a).

These target areas are drawn from the Federation’s Special Education Policy, endorsed in a decision of Annual Conference, 2014. The policy is reproduced in full at Appendix 1 where action points under each of these target areas are comprehensively outlined. The policy is included to inform the Committee of the Federation’s position on systemic needs and future directions in this area.

Recommendations

Federation calls on the Committee to recommend that the State Government:

1. Continues to advocate for the Federal Government’s immediate implementation of the Gonski SWD loading, which has been withheld for the past 2 years, and continues to be withheld.
2. Continues to advocate for the Federal Government to reverse its cuts to the final two years of Gonski reforms and implement the full six year Gonski funding model as set out in the NERA.
3. Maintains and enhances investment in the education of students with disability in NSW public schools, consistent with the Gonski needs-based principles and model and the requirements under the NERA.

4. Adheres to its obligations as an education provider under the *Disability Discrimination Act 1992* and the *Disability Standards for Education 2005* and in doing so better equip the NSW public education system to do the same.
5. Calls for and allocate additional funds to invest in equitable and quality education for students with disability to improve:
 - a. the provision of time and professional learning to deliver on personalisation through teaching and learning, with a particular focus on supported and system-wide transition planning processes
 - b. Integration Funding levels,
 - c. timely access to specialist support,
 - d. Access Request and placement panel processes,
 - e. provision of support class placements,
 - f. staffing levels for support units and
 - g. equity of resource allocation to Schools for Specific Purposes (SSPs).
6. Releases comprehensive detail on the impact of the changes to disability service provision in NSW on public schools and students, and develops protocols addressing the intersection between the Department of Education and its public schools with the National Disability Insurance Agency (NDIA), the NDIS and disability service providers.
7. Continues and expands funding allocations and provision of dedicated specialist services which support: the personal care of students with disability at school (including the management of complex health care needs); transport to and from school; and assistance in coordinating or managing life stages, transitions and supports.

Introduction¹

Public education settings seek to meet the learning needs of all children and young people. To achieve such a feat, the NSW public education system, as an inclusive education system, is made up of a continuum of options that aim to deliver quality education to all students. With their access and familiarity to students and their families, public education settings are important hubs to address and promote student wellbeing. Through their opportunities for mental health promotion, these settings are essential to improving the quality of life of young people, supporting their aspirations and improving the health of society into the future.

Teachers in public education settings play a pivotal role in creating and promoting a society where all students can flourish. They are one of the agents of change in promoting social and emotional wellbeing, acting as early detectors of need and implementing effective prevention and intervention strategies. With the necessary resources, specialised places of learning, whole school structures, effective leadership, inclusive cultures, centralised supports, safety response systems and ongoing professional development, teachers will have the capacity to address the diverse needs in their classrooms, which currently, and understandably, challenge so many.

Providing quality education for all is an important and complex task that has fallen too often on individual school communities and teachers whose skills, health and workload are unsustainable in the absence of systemic support, safe work environments and increased funding. Furthermore, strong and ongoing transdisciplinary collaboration is required to deliver the holistic, integrated and specialised services necessary to support complex needs. Collaborative relationships with parents and communities that are characterised by mutual respect and facilitate the sharing of expertise, knowledge growth and choice are also vital for achievement and wellbeing through quality education.

Through these partnerships, the NSW public education system is well positioned to contribute to the development of social literacy and the achievement of individual citizenship in every student.

Citizenship (is) an active lifestyle that has the prospect of fulfilment for the person concerned. Such a lifestyle is where, as part of a personally defined set of lifestyle choices, the person is in and part of their local community, contributing and growing through involvement in meaningful valued activities, and participating in a network of relationships characterised by acceptance, belonging and love (Duffy & Williams, 2012, 12).

Students with disability, in all public education settings, in every classroom each day, share these life goals. These students are entitled to equity of access to educational resources, qualified personnel, timely specialist provision, an inclusive curriculum and appropriate specialised settings that facilitate their personalised learning. This can only be achieved by providing the necessary social context, expertise and high expectations to support achievement.

¹ The Introduction has been taken from the Federation's special education position paper, *Public Education: An Inclusive System of Provision for Students with Disability* (NSW Teachers Federation, 2014b, 1–3), which is included in full at Appendix 2 for the information and consideration of the Committee. The paper articulates Federation's position on the provision of public education to students with disability.

The promotion and recognition that persons with disability have the same fundamental rights as the rest of the community is a central object of the *Disability Discrimination Act 1992*. In relation to education and training, under the *Disability Standards for Education 2005*, these rights require the education provider to take

reasonable steps to ensure that the student is able to participate in the courses or programs provided by the educational institution, and use the facilities and services provided by it, on the same basis as a student without a disability, and without experiencing discrimination. (Ruddock, P M, 2005, 19)

The World Health Organization's (WHO) 2011 World Report on Disability argued the importance of including children and adults with disabilities in education, identifying that:

- education contributes to human capital formation and is thus a key determinant of personal wellbeing and welfare
- excluding children with disabilities from educational and employment opportunities has high social and economic costs. For example, adults with disabilities tend to be poorer than those without disabilities, but education weakens this association (World Health Organisation and World Bank, 2011).

As such, inclusive, quality education for persons with disability is not only important in itself but is also key to employment and participation in other areas of social activity. Realising the rights and meeting the needs of children and young persons with disability can improve their employment outcomes in the future, equating to substantial economic gains to individuals and society.

In 2011, the Australian Network on Disability commissioned the economic benefits of increasing employment for people with disability report by Deloitte:

“The economic modelling presented in this report suggests that closing the gap between labour market participation rates and unemployment rates for people with and without disabilities by one-third could result in a cumulative \$43 billion increase in Australia’s GDP over the next decade in real dollar terms. The modelling also suggests that GDP will be around 0.85% higher over the longer term, which is equivalent to an increase in GDP in 2011 of \$12 billion” (Deloitte Access Economics, 2011, ii).

Australian federal and state governments have introduced reforms in school education and disability care, guided by the National Disability Strategy 2010-2020, with the aim of achieving greater inclusion and engagement of persons with disability in all aspects of life. These reforms include the Nationally Consistent Collection of Data, the National Disability Insurance Scheme, the Australian Curriculum and the National Education Reform Agreement.

The challenge is to ensure these reforms reach public education settings in an effective and sustainable manner that sees them fulfilled all the way to the local level. Australian governments, the Department, teachers, parents and school communities have a shared responsibility to ensure the provision of quality education of all students. Through the governments' provision of responsive, equitable and recurrent resources, the NSW public education system has the potential to realise this aim.

Current national levels of access and attainment²

ABS figures put the number of Australian school students with disability at 295,000 or 8.3% (ABS, 2014). This proportion has risen over the past decade alongside the level of recognised disability in the population. 76% of students with disability are enrolled in public schools compared to 64% of the student population overall (Productivity Commission, 2014, Table 4A.31).

86% of students with disability are educated in mainstream schools, the result of a shift towards inclusion policies over recent decades. Inclusion was enshrined in the Disability Standards for Education 2005, which were formulated under the Disability Discrimination Act and state,

a person with disability is able to seek admission to, or apply for enrolment in, an institution on the same basis a prospective student without a disability.

While formal equality before the law has been achieved, the reality in schools is different. A 2011 review of the Disability Standards found resource constraints were the major impediment to their effective functioning and this remains the case today. A 2015 survey conducted by Children and Young People with Disability Australia (CYDA), found 23% of parents and carers have had a child refused enrolment because a school could not provide adequate support. (Children with Disability Australia, 2015)

After years in under-resourced schools, more students with disability drop out of education. Year 12 completion rates among people with a disability are 36% compared to 60% for those without disability (ABS, 2014).

Families of disabled students frequently highlight the failure of the system to adequately prepare students for post-school life and its effect on further education opportunities. Despite school enrolment rates commensurate with their presence in the population of above 8%, students with a disability make up 6.8% those enrolled in vocational education and 5.5% of university students (NCVER, 2014). 15% of people with disability aged 15-64 have completed a bachelor degree or higher, compared to 26% of those without disability.

Children aged 3-5 with a disability comprise 6.2% of the total population in the age bracket, but only 5.6% of children enrolled in preschool (Productivity Commission, 2014, Table 3A.14).

² This section, 'Current national levels of access and attainment', is taken from the Australian Education Union's (AEU) submission (Australian Education Union, 2015, 3) to the 2015 Senate inquiry into current levels of access and attainment for students with disability in the school system and the impact on students and families associated with inadequate levels of support. The submission, which includes contributions from the Federation and was made on behalf of all public education unions around the country, is included in full at Appendix 3 for the information of the Committee.

Terms of Reference

a. equitable access to resources for students with a disability or special needs in regional and metropolitan areas

Department figures show that around 15 per cent of the total 780,000 students in NSW public schools have adjustments to their learning due to disability and/or difficulties in learning or behaviour (NSW Department of Education, 2016).

This figure represents an increase from the 12 per cent the Department has reported over the last few years. The new figure is based on the NCCD, which has provided a mechanism for consistently identifying the number of school students with disability and the level of reasonable educational adjustment provided to them. In doing so the NCCD regards disability as defined under the *Disability Discrimination Act 1992* and counters what has in NSW been a significant under-reporting of students with disability.

Educational access and provision for these students face significant barriers in NSW due to the ESES cost-capping mechanism and the federal government's refusal to deliver the Gonski SWD loading, which has been withheld for two years.

The Gonski SWD loading has been delayed despite repeated promises from the Federal Government to deliver it. The Coalition went into the 2013 election promising to fund all students with disability from 2015. The promise was repeated by then Education Minister Christopher Pyne in June 2015 when he said that from 2016:

Every child in Australia with disability will be able to receive the correct loading, as they should, to match their disability. (Cited in Australian Education Union, 2016)

The continued refusal of the Federal Coalition Government to fund the Gonski SWD loading means growing numbers of students are not gaining equitable access to education or improved life outcomes through schooling.

New figures from the Productivity Commission and the Education Council's report on the NCCD show that more than 268,000 students with disability are not receiving funded support for their schooling (Education Council, 2016a).

The Federal Government's own data shows that 13.6 per cent of all students need funded support at school but only 6.2 per cent are currently receiving it.

As reported by the ABC on February 16,

The NCCD number for students that required some sort of financial support dwarfed the number of students with disability that the Productivity Commission said were actually funded.

Earlier this month, the Productivity Commission released its own report on government services. It found the total funded students with disability in 2015 by all Australian governments was 200,168.

According to those numbers, more than 268,000 students with disability were in school without funding support to pay for adjustments to assist in their education. (Australian Broadcasting Corporation, 2017)

Federal Minister for Education, Simon Birmingham continues to claim that the delay of the Gonski SWD loading is due to the alleged unreliability of data emerging from the NCCD. The following statements made by the Education Council are of particular importance in light of such claims:

Through the new report 'Improving educational outcomes: Emergent data on students with disability in Australian schools' the Education Council has released high-level data from the 2015 NCCD...

The NCCD relies on the professional knowledge, practice and judgements of teachers and school staff about the educational needs of their students. Through the collection, teachers make evidence-based decisions about the level of adjustment being provided for each student with disability and the broad category of disability under which a student best fits.

Over time, higher quality data will enable schools, education authorities and governments to gain a more complete understanding of students with disability in Australian schools and, in turn, inform policy development on how to best support this important cohort of young Australians.

"Like any new collection, it will take time for the NCCD to mature and become an established part of school practice. We can expect the data will improve in quality as schools and teachers build on their experience" Minister Lawler said (Education Council, 2016b).

Further, in explicit reference to the critical nature of high quality and reliable information to the collection, the Education Council reports:

The annual collection aims to, over time, lead to nationally consistent, high quality data that will enable schools, education authorities and governments to gain a more complete understanding of students with disability in schools in Australia and how to best support them. This in turn will assist in future efforts to target resources and inform policy development for students with disability.

Given the staggered nature of the implementation of this collection and its use of a model based on teacher professional judgement, improving the quality of data collected through the collection is an iterative process.

As part of continued efforts to enhance data quality, the Joint Working Group engaged PricewaterhouseCoopers Australia to visit schools and work with education authorities in all states and territories to conduct two projects reviewing the quality and consistency of data collected under the 2014 and 2015 collections. These projects, known as the Continuous Quality Improvement Projects, involved PricewaterhouseCoopers working directly with teachers and school leaders to

understand how well schools understood and applied the data collection model and what underlying processes were in place to support students with disability.

These projects found that participating schools' level of understanding of the collection's model, the DDA and the Standards contributes directly to the quality of the data collected. Further, as this understanding grows stronger each year the school participates, the quality of the data also improves (Education Council, 2016b, 6)."

Such robust accountability and ongoing monitoring approaches to the NCCD clearly indicate that to associate any delay of funding for students with disability to the collection's unreliability is misleading and points to a lack of political will to improve the state of education provision of students with disability. This is a negligent and discriminatory action on behalf of any government, which the Federation condemns in the strongest terms.

Further to these figures, the AEU's 2016 State of our Schools (Australian Education Union, 2016) survey found that:

- 87 per cent of principals reported having to shift funding from other parts of their school budget to assist students with disability (up from 84 per cent in 2015)
- 62 per cent of teachers say the needs of students with disability at their school are not being properly met

The 2016 Children and Young People with Disability Australia (2016) Education Survey found that:

- 67 per cent of parents do not think the level of support their child with a disability receives at school is adequate
- 73 per cent of students were receiving individual support at school, but only 57 per cent received specific individual funding.

The long term underfunding of educational adjustments, targeted interventions and specialist human resources for students with disability in NSW public schools has seen the continuation and exacerbation of their inequitable access to education.

The Federation's submission to the Legislative Council inquiry into the provision of education to students with disability and special needs in 2010 has been reproduced in full at Appendix 4 for the Committee given that the overwhelming majority of issues raised in response to the terms of reference remain as issues for public schools in 2017.

The following issues, which impact on the capacity of teachers and schools to respond to the needs of students with disability, are consistently raised by Federation members.

1. At a universal level of intervention, that is, most teachers for most students report:

- Lack of teacher familiarity with and access to the various layers of support, such as procedures, funding or human resources, available for their work in engaging and supporting students with disability.

- As a result many teachers feel isolated and overwhelmed in meeting the needs of their students, leading to low morale and negative impact on their wellbeing from feeling unable to help their students.
 - Lack of professional learning and access to expertise to have the confidence and knowledge in how to effectively work with parents/carers and make and implement reasonable adjustments for students with disability, particularly those in regular classes in mainstream schools.
 - Given the training on the *Disability Discrimination Act 1992* and the *Disability Standards for Education 2005* offered to schools, teacher awareness of their obligations toward students with disability has increased but many continue to report that training has been provided about what they are expected to do but not on how to do it.
 - Lack of time, opportunity and support to engage in meaningful collaborative planning with parents/carers and other key people involved in their students' education and care.
 - Many teachers report that they are not included in key meetings about their students, such as Learning Support Team meetings, Review meetings and Suspension resolution meetings and that they are not provided with the necessary release to meet and plan with parents as needed.
 - Lack of transition planning, with advance forecasting and resources to ensure that students starting in new settings have needs identified and catered for proactively.
 - Schools report enrolling students in the absence of having had the opportunity to secure necessary resources and develop necessary healthcare, behaviour support, risk management and/or learning plans prior to the arrival of the student.
 - Lack of training in the Access Request process and time to complete quality Access Requests, reflective of the needs of students needing additional targeted support.
 - Teachers, principals and placement panel members alike report the discrepancies that exist in the quality of Access Requests being submitted and that sometimes students miss out on targeted support as a result of an Access Request of lesser quality that does not accurately reflect the needs of the student.
2. At a targeted level of intervention, that is support class and other teachers for students in support classes report:
- Issues with the placement panel process that determines which students are suitable and eligible for support placements and which placements they will be able to access.
 - It has been reported that placement panels are being conducted in an inconsistent manner across the state, with varying degrees of transparency and the rationale for decisions made by panels not always forthcoming.
 - Currently there are no Departmental policies or guidelines on the running of placement panels.
 - Placement panels are sometimes tasked with placing students they do not know in settings with which they are unfamiliar.
 - Students who have been deemed suitable and eligible for placement have been denied placement because vacancies do not exist, despite the requirement for the Department to establish support classes on a needs basis.

- Students who have been deemed suitable and eligible for placement are sometimes ranked by panel members to determine priority of need due to limited placement availability, resulting in students missing out on immediate placement as required.
- The Department has established a “Student Profiling - Informal Advice” process which is used to discourage schools from activating an Access Request despite the professional advice from principals and teachers and allied health professionals seeking alternate suitable placement and additional Integration Funding.
- The Department’s Educational Services have been reported as acting as gatekeepers of targeted support, allegedly dissuading schools from submitting Access Requests, encouraging schools to vary the assessed level of need in the domains against the school’s professional judgement and/or failing to provide accurate informed advice due to a lack of expertise held by the team’s Learning and Wellbeing Officer and/or Advisor.
- Where students are deemed ineligible for a support placement schools sometimes do not receive adequate additional support to address the needs of the student in the mainstream setting.
- Members have reported not knowing the outcomes of placement panels in a timely manner causing undue stress to families and students and limiting the capacity of schools and families to support students through an effective and considered transition process to a new and unfamiliar setting.
- The establishment of support classes is impacted by a mainstream school’s willingness to host the class at their school.
- Increasingly in some areas, predominantly those outside of metropolitan Sydney, there are reports of Support Units in mainstream schools growing beyond six classes and becoming unmanageable in light of not attracting additional staffing, namely Executive staffing entitlement. Some Support Units across the state have been reported as being as large as Schools for Specific Purposes (SSPs) but running with less administrative, staffing and funding support.

3. At an intensive level of intervention, that is, teachers of students in or requiring placement in SSPs report:

- Inequitable access to SSPs in regional and rural areas of the state.
 - Resulting in increasing numbers of Multi-Categorical classes, which cater for students with up to three different categories of disability (but in reality the mix is often greater) and expanding Support Units (as detailed above), which because of both the breadth and complexity of need, and sheer number of students are less effective and equipped to cater for the students placed there.
- Inequitable resource allocation to SSPs.
 - SSPs do not have access to the additional Gonski funds being delivered via the Resource Allocation Model (RAM) for disability:
 - Because of the extent of adjustment required and complexity of need, students in SSPs are not eligible for the Low Level Adjustment for Disability RAM Equity Loading
 - The Department has indicated that the targeted funding component of the RAM model is delivered to SSPs via increased teacher to student ratios. This

provision is a long term adjustment that has been in place and as such is a base requirement on top of which additional resources are needed.

- Despite direct representation and negotiation, the Department did not accept the Federation's proposals to: deliver the base loading allocation on an equitable basis to SSPs by funding the base on notional student numbers rather than actual student numbers; and have discrete allocations for secondary and primary students to rectify the inequity of all SSPs being staffed as primary schools.
 - As a result, the RAM in its current form does not allow for additional Gonski funds via the SWD loading to reach students with the most complex needs, who required the highest level of educational adjustments.
 - In failing to give SSPs access to additional Gonski SWD funds, the Department is failing to address a lack of secondary supplementation and parity in regard to Executive staffing. That is, currently SSPs are staffed as primary schools despite most being K-12 with students being denied specialist subject teachers, careers advisors, Head Teachers and other resources provided in secondary schools.
 - In distributing the additional Gonski funds through their Quality Teaching, Successful Students initiative, the Department allocated funds on an inequitable basis to SSPs and only in recognition of their primary student numbers.
- The other RAM Equity Loadings are also distributed on an inequitable basis to SSPs, as they too are based on actual not notional numbers.
 - Students with complex needs in regional and rural areas of the state have inequitable access, if any at all, to specialist disability services and professionals.

b. the impact of the Government's 'Every Student Every School' policy on the provision of education to students with a disability or special needs in New South Wales public schools

The Department's Every Student, Every School (ESES) learning and support framework unilaterally implemented in 2012, was claimed by the Department to find better ways of ensuring that the additional learning and support needs of every student in every school are met.

The \$47.9 million provided to NSW through the Australian Government's National Partnership initiative, More Support for Students with Disabilities were used to implement ESES. The Department described this as

an important opportunity for public schools in New South Wales to build their capabilities to meet the additional learning and support needs of students with disability.

Schools and regions will be better equipped to understand the diverse learning needs of their students and have the capacity to meet those needs through progressive implementation of Every Student, Every School in 2012 and 2013.

Despite these claims and despite some inroads made in the delivery of long overdue systemic supports, ESES and, now, the RAM have not delivered adequate resources to:

- improve student outcomes
- strengthen capacity to meet obligations to students under the *Commonwealth Disability Standards for Education 2005*
- raise the expectations of students, teachers, executive, parents and carers and school communities
- strengthen partnerships between schools and parents and carers
- increase levels of student participation and engagement in learning
- develop and sustain a positive and welcoming school culture for every student, including those students with disability and additional learning and support needs, and their parents and carers
- improve the quality of teaching and learning for every student
- enhance specialist provisions available in every school
- improve access to timely specialist support for students and their teachers within schools
- promote recognition and understanding of the rights of students with disability and the obligations of teachers and schools toward students and their parents and carers.

In 2012, NSW Treasury dictated education policy to cap and reduce funding for students with disability. A Boston Consulting Group report commissioned by the NSW government recommended \$100 million of funding cuts to special needs education (see page 58 of Appendix 7). The government's funding formula, implemented via ESES, was designed to stem the 11 per cent annual growth in the cost of special needs education.

The report identified the *“opportunity to restructure the fast growing special education and equity area (potentially worth \$100 million)”* by reducing enrolments and support in these areas. *“Victoria introduced reform initiatives in 2005 which stemmed growth of special education and suggests a broad opportunity exists to streamline NSW special education/equity programs [p58 and p150]”*

The School Learning Support Program trial in the Illawarra and South East Region was sold to principals as not being about cost cutting, yet the savings revealed equal to \$20-\$25 million per annum. See also p75 *“proposed [School Learning Support Trial] will promote sustainability . . . may avoid up to \$100-120 million over five years.”*

Federation maintains that together with capping costs, ESES was aimed at devolving responsibility to individual schools for provision of resources and expertise. When attempting to access additional resources to support students with disability, principal members report that they are told to find the resources within their RAM funding.

Funding for students with disability via the RAM continues to be distributed predominantly via the Student Learning Needs Index (SLNI) established under ESES, which serves as a mechanism to distribute capped funding based on relative needs of the school within the system.

The SLNI is calculated using the following process:

- The total number of students in all schools who perform in the lowest 10% in reading and/or numeracy for each grade and year of test are counted. Students who perform in the lowest 10% in both tests are counted twice.
- The number of positions available is then divided by the total number of students performing in the lowest 10%. This provides the index.
- The allocation to an individual school is calculated by multiplying the number of students in the lowest 10% in that school by the index.

The SLNI is not a needs-based index, which allocates resources based on actual need within the school, nor is it responsive to changes in such needs within the school year.

The Department claimed that ESES would deliver:

- i. professional learning to support understanding and skills in meeting the adjusted learning needs of students with disability
 - The online training made available to schools via OnLine Training (Aus) is insufficient to provide the level of specialist training required by Learning and Support Teachers and for teachers of regular classes in mainstream schools it provides a sound basis, however it does not deliver the resources and ongoing support required to make and implement adjustments as required by their students.
- ii. the provision of a specialist teacher in every regular school
 - An audit of the level of specialist training and experience of Learning and Support Teachers is necessary, as Federation continues to receive reports of inexperienced teachers with no relevant training being placed in these positions.

- iii. centres of expertise through special schools,
 - SSPs developed and implemented projects which were determined by individual schools or groups of schools in the absence of state wide coordination which would have ensured that projects were not duplicated, had effective targets and were using resources efficiently.
- iv. Implementation of tools and materials to support personalised learning and support planning.
 - The Personalised Learning and Support Signposting Tool is a valuable tool but regrettably too few schools are engaged in its use and resource issues limit the capacity of its findings to influence practice.

Further impacts reported by schools as a result of the implementation of ESES include:

- In reallocating nine categories of specialist support teachers into one generalist Learning and Support (LaS) teacher role, expertise was lost as experienced support teachers did not continue into the new role, while the expertise of others has been wasted in that their area of expertise was not what was required at the school to which they were appointed and they are either being underutilised, utilised ineffectively or depended on too heavily for all matters relating to students with disability at the school resulting in exorbitant workload and ineffective practice.

One such example of the impact of the reallocation of support teachers was that of Support Teachers Learning Assistance (STLA). STLAs typically provided intervention for individual students and groups of students requiring additional assistance with learning difficulties. Their expertise was mostly utilised to teach literacy and numeracy skills across the subjects especially supporting students to meet the learning outcomes of the English and Mathematics syllabuses in primary schools. The ESES policy implementation resulted in the abolition of the STLA positions and this role was subsumed into the LaS teacher positions. The STLA was previously able to deliver programs utilising their specialist skills and expertise not able to be replicated with the same level of efficacy under the broader more complex LaS teacher role. The specially designed programs and specialist teaching directly delivered to students with learning disabilities by the STLAs ceased in most circumstances upon the implementation of ESES.

- The LaS teacher role is a generalist role, under which the person holding the position is expected to have expertise and the capacity to support students and their teachers across all types of disability. Even for the most experienced of support teachers this has proved challenging, not to mention those teachers who have no qualifications and/or experience in this area and have been appointed as the LaS Teacher, which, as per the role description, included at Appendix 5, is intended to be a specialist position.

The Federation often receives reports of early career (even first year) teachers, teachers from different subject areas and/or those with no experience being put into the LaS Teacher role. Many such teachers attend the Federation's Centre for Professional Learning course aimed at an audience of teachers with little to no experience teaching students with disability. They

attend as they are seeking direction and support in a role with which they are otherwise unfamiliar, and for which they are unprepared and unqualified.

- In anticipating the attrition that would inevitably occur as a result of the reallocation of support teachers into the LaS Teacher role, and the consequent need to prepare new teachers for the role, the Federation did call on the Department to quarantine some of its retraining scholarships for teachers new to the role to ensure expertise was maintained. This proposal was not supported by the Department.
- In reallocating support teachers directly into schools, SSPs lost their access to support teachers, as they do not have an entitlement to LaS Teachers.
- The Department unilaterally abolished Reading, Language and Early School Support classes in the absence of any longitudinal studies or evaluations of any kind investigating the efficacy of and need for such specialist provisions. These classes were staffed by teachers with relevant qualifications and expertise. Students in these classes were not and have not been provided with an equivalent level of targeted specialist support. These classes were a significant and extremely effective and valuable specialist service within the mainstream school. This inbuilt layer of support ensured these students could access the required level of specialist support in the least restrictive environment, promoting inclusive practice and ensuring such students were able to access mainstream schools over having to enrol in SSPs.
- In losing these specialist classes some settings lost their entitlement to additional Executive staffing because they no longer held the required number of support classes – a loss impacting right across the school.
- As previously described the SLNI funding distribution measure has resulted in the capping of flexible funding and specialist teacher allocation.
- The SSP Centres of Expertise projects were poorly managed with little to no sharing of the projects coordinated by the Department. The projects were intended to act as a catalyst for ongoing support of local mainstream schools and sharing of expertise. In reality, the scope of this has been limited and unsupported at a state level by the Department.
- One of the ESES project areas looked at the development of a functional assessment tool. What instead came to fruition was the Department's Personalised Learning and Support Signposting Tool (PLASST), which, despite its value, falls short of being a comprehensive functional assessment tool. It highlights where to begin/prioritise focus in making adjustments for students' learning but does not support that process beyond the point of initial identification.
- The ESES learning and support framework did not result in the delivery of increasing levels of recurrent funding, requiring the Department to enhance its funding efforts and make a claim to Treasury on the need for additional investment in the disability budget. In fact, when questioned by the Federation on multiple occasions as to how different aspects of the five project areas and the framework as a whole would be supported beyond the National Partnership, the Department indicated that Gonski funds would pick up where the partnership left off: funds which have not yet been delivered by the Federal Government.

In 2013, Federation commissioned research from the University of Sydney into the impact of the Department of Education's Every Student, Every School learning and support framework. The University used the funding to investigate the achievements of ESES and examine how the initiative could be further enhanced. The final report is provided for the Committee's information and consideration at Appendix 6.

In handing down their findings, the research team stated:

We hope that the results of this research will ensure continuing funding and improvements in the delivery of learning assistance and support to all students in NSW Public Schools. (Rawsthorne & Evans, 2015, 3)

The research highlighted the changing student population in NSW public schools, including the increase of students with mental health issues.

The research identified the following strengths of the reform (Rawsthorne & Evans, 2015):

- Capacity building at school level
- Whole school impact, implementation and structures
- Joint ownership of student needs
- Student at the centre
- Shift in philosophy of responsibility for and ways of addressing student need
- Raised awareness of student rights/teacher obligations

The research identified the following limitations:

- Removal of what was then known as regional support
 - This level of support was considered particularly important in rural areas
 - A move from specialist differentiated support to generalist support (if any at all) has been experienced
 - Some research participants questioned the accessibility and expertise of previous regional support personnel. It would be valuable to investigate how those participants evaluate the specialist support available now.
 - An additional 'whole school' layer of support was added but at a cost to the 'targeted' layer – both layers are required and need to work simultaneously
 - There appears to be limited awareness of what support is currently available to schools
 - Further clarification and transparency is required of the following:
 - What is the level of expertise of those working on Educational Services teams, as Learning and Engagement Officers/Advisers?
 - What is their mode of delivering support?
- Impact of the LaS teacher's skill and role implementation
 - Differing levels of expertise amongst LaS teachers and efficacy of role implementation across state
 - Generalist rather than a specialist role

- Disconnect between philosophy and practice of ESES
 - General consensus existed in the support of the philosophy underpinning ESES.
 - The limitations and challenges outlined (including the need for ‘champions’ to advocate for and drive the change, together with resourcing issues) limit the implementation of such a philosophy.
 - The philosophy appeared clearer amongst principals and LaS teachers than teachers at the coalface.
 - Additional resources have not been made available to support the ‘philosophy’ – only a resource redistribution has occurred.
 - *“...Embrac[ing] the ideals of the initiative”* is simply implementing good practice and legal requirements – not inherent merit of the initiative itself. *While the philosophy of the ESES strategy might be sound, the ESES framework was seen by some to fall down in practice. There are difficulties surrounding implementation, there are not enough champions and schools are not supported adequately to ensure the framework is carried out to effectively meet student need.* (Rawsthorne & Evans, 2015, 65)

- Lack of access to additional support if high levels of need exist at the school
 - There was ambiguity in regard to the perception of the previous funding methodology. It was deemed targeted, transparent and guaranteed on the one hand, but restrictive (in that it was limited to use with one student) and cumbersome to access on the other.
 - A positive attribute perceived of the new methodology is that money can be used at the discretion of the school.
 - There was a general perception that more resources are available. However, some schools had more students requiring support than funding provided via a prevalence model and it is unclear to schools how, if at all, they can access additional funds/support where needed

Particular note should be taken of the report section headed Continuing Challenges from page 63 (Rawsthorne & Evans, 2015), which:

...highlights the continuing challenges of achieving the principles of inclusion in NSW public schools. Whilst ESES was generally welcomed a number of study participants highlighted areas for further development including:

- *Access to greater specialist support*
- *Access to ongoing professional development opportunities*
- *Greater guidance from DEC about ESES implementation*
- *Making it ‘real’ in the classroom*
- *Funding the need*
- *Whole of school cultural change*

The following is Federation’s commentary based on the research findings, in the context of future directions and campaigning:

If all mainstream public schools in NSW are to be equipped to deliver a general support layer of special education (learning and support) and to have this genuinely embedded in an equitable and inclusive education model at the school level, the following must be addressed:

- Strengthening of centralised (network) support
 - by considering the function, capacity and transparency of the Educational Services teams around the state
 - by formalising the role of Educational Services in coordinating the provision and sharing of expertise via transparent processes for communication about, referrals to and clear responsibilities under the cascade of targeted support. If clear processes are available at each of and between the various levels of targeted support then its efficacy and sustainability will be improved.

- Strengthening of the LaS teacher role
 - via enforceable qualification/experience requirements, ongoing professional learning, effective role implementation, and provision of networking and support structures

- Strengthening of the Learning and Support Team (LST)
 - via state-wide guidelines, sharing of effective practice and funding to support release of members to meet and implement their work

- Improved access to timely specialist services
 - via Educational Services team officers with high level qualifications, experience and expertise in their area of carriage
 - via increased numbers of School Counsellor allocation to schools
 - via provision of state government provided speech pathologists and occupational therapists to public schools
 - via specialist support for SSPs and better sharing of the expertise of SSPs amongst the system

- Improved access to and quality of professional development

- Implementation of the Gonski SWD loading to fund the aforementioned
 - As with RAM, the initial objections to the ESES framework – particularly in relation to the funding methodology – could be addressed and resolved in the context of a recurrent growth funding model

Furthermore:

- Positive views of ESES should be welcomed as an increase in awareness of system/school/teacher responsibilities towards students with disability and a preparedness to progress practice accordingly.
- Funding flexibility should not be confused as increased autonomy and resources when the methodology is still not needs based.
- Schools should be cautioned against using RAM funding to buy in supports that should be available within the system already.

- As the study did draw a pre- and post-ESES comparison there was little discussion in regard to the current quantum available for supporting students with disability and whether this is sufficient.
- The findings show an increase in awareness of what education providers need to do, as opposed to an increase in actual resources.
- Much of what is referred to as the “ESES philosophy” is merely an articulation (well overdue) of existing obligations under the *Disability Discrimination Act 1992*.
- Just because the onus is now viewed to be on teachers, this does not automatically mean that they know what to do in catering for students with disability.
- “... *the success of the ESES implementation is fostered by a Principal or Executive Staff with a strong interest in special education ...*” (Rawsthorne & Evans, 2015, 76). However this success would be premised on a not necessarily fair assumption of them having an adequate knowledge and understanding regarding disability and education.
- “*A major challenge is how to ensure all schools have ‘ESES champions’ ...*” (Rawsthorne & Evans, 2015, 77). What we should be striving for is leadership modelling and systemic supports for equitable and diverse education.

The research team made the following recommendations (Rawsthorne & Evans, 2015), based on their investigation:

1. That schools have access to Learning and Support Teachers who are well trained, knowledgeable and adequately employed to perform the roles and responsibilities of learning support within the school setting.
2. That professional development in relation to the ‘Every Student, Every School’ initiative be revised in terms of content, mode of delivery and timeliness to encourage greater participation by school staff in NSW.
3. That the projects undertaken by SSPs found to be of relevance to other schools be widely publicised and available so that mainstream schools are aware of and can benefit from their expertise.
4. That centralised specialist support be available to resource individual schools across the spectrum of learning and support needs evident in NSW schools.
5. That DEC actively support the development of local and regional networks to facilitate professional development and information sharing.
6. That further research be undertaken with parents of children with additional learning and support needs to identify appropriate partnership strategies.

Since the research was undertaken, the ESES framework has been brought into alignment with the Department’s RAM.

c. developments since the 2010 Upper House inquiry into the provision of education to students with a disability or special needs and the implementation of its recommendations

The following is an excerpt from the Chair's Foreword of the 2010 Inquiry Report:

This Inquiry received more than 700 submissions and heard evidence from over 70 witnesses...

The overwhelming view among inquiry participants is that there are significant inadequacies in the NSW education system for students with disabilities and special needs. The Committee believes that the NSW Government needs to take immediate action to address these inadequacies if it is to meet its legal obligations to ensure equal access to the education system for all children.

Inquiry participants argued that one of the major barriers to the effective inclusion of students with disabilities and special needs in the education system is the lack of appropriate funding in both the government and non-government sectors. We therefore call on the NSW Government to substantially increase funding for these students in NSW Government schools, including Schools for Specific Purposes.

The current efforts of principals, teachers and support staff to promote a safe and inclusive learning environment for students with disabilities and special needs is commended by the Committee. However, we recognise that school communities would benefit from additional support and guidance on how to effectively maximise the use of available resources to assist students with disabilities and special needs (New South Wales Parliament Legislative Council General Purpose Standing Committee No.2, 2013, xii).

It has been six years since the last [NSW parliamentary inquiry](#), with limited progress achieved toward the 31 recommendations made by the Committee.

	2010 NSW Parliament Legislative Council inquiry recommendations:	Federation commentary on status of recommendation:
1.	That the NSW Government substantially increase funding for students with disabilities and special needs in NSW Government schools to ensure all students have equitable access to education.	Commentary has been made throughout the submission regarding the impact of the Federal Coalition Government's delay of the Gonski SWD loading and the capped ESES funding mechanism, the SLNI. It has been unclear to date whether the state government has allocated their share of the NERA funds in NSW.
2.	That the NSW Government, in its submission to the Commonwealth school funding review, advocate a transparent funding mechanism to meet the need of students with disabilities or additional learning needs.	The state government has continued its implementation of the capped funding mechanism introduced under ESES and has not substantially increased investment in the targeted Integration Funding Program.

3.	That the NSW Government address the current anomaly in which Schools for Specific Purposes are staffed and funded on a primary school formula, even though they cater for a large number of high school aged students.	This anomaly, which entrenches inequity for those students with the most complex of needs has not been rectified. Federation advocated a way of addressing this long term issue under the RAM base allocation but this was rejected by the Department.
4.	That the Department of Education and Training examine ways to reduce the requirement for those students whose disability and level of need is unlikely to change dramatically in the space of a year to reconfirm their disability status on an annual basis in order to receive disability funding.	This requirement has not changed for students with high support needs who attract targeted funds over \$6,400.
5.	That the Department of Education and Training investigate ways to communicate the outcome of the disability funding assessment process to families, carers and schools in a manner that is clear, timely and sensitive.	Despite the development of the tool and support resources (including a video infographic), uptake of the PLASST does not appear to be wide spread.
6.	That the Department of Education and Training move rapidly towards the development and application of a functional assessment tool which has been independently monitored and assessed. This tool should be used to inform decisions about access to disability funding and to further enhance educational outcomes for students with disabilities and special needs.	As indicated previously in the submission, the tool developed by the Department – the PLASST – is not a robust functional assessment tool. It can however be used as evidence of adjustment as required under the NCCD and as such is expected to assist in informing decisions about need and access to disability funding.
8.	<p>That the Department of Education and Training:</p> <ul style="list-style-type: none"> • acknowledge and accept that there is widespread concern about the unmet demand for special education places in NSW Government schools • undertake an immediate investigation into the level of unmet demand for special education places and classes and publish the results of this investigation • increase the number of special education places and classes to ensure that there are adequate places to cover demand for all students with disabilities and special needs • abandon plans to dissolve existing language support classes. 	The Department established and coordinated an Access to Specialist Support Services Stakeholder Advisory Group to review student need and the provision of support on an equitable basis across NSW. The Federation participated in this process with the expectation that the matters raised at recommendation 8 would be resolved. No actions have as yet been taken, that Federation is aware of, in resolving these matters. It took until 2016 for such an advisory group to be established by the Department.

9.	That the Department of Education and Training publish details of its response to the Auditor General's 2006 report in relation to the Regional Placement Panel process, including a timeline for the implementation of this revision.	A recommendation of a similar nature was made by the Auditor General in the recommendations of the 2016 Performance Audit referred to in this submission. Identified issues with the Placement Panel process remain unresolved.
13.	That the Department of Education and Training require all mainstream NSW Government schools to establish or be resourced by a school learning support team.	The Department references such a requirement in existing policy however there are no dedicated resources to support the effective running of these teams and no guidelines or accountability measures guiding their practice and outcomes.
14.	That the Department of Education and Training work towards ensuring that all school learning support teams include at least one member who holds a special education qualification, if necessary, by providing funded professional development opportunities to existing school staff.	This has not been implemented.
15.	That the Department of Education and Training publish guidelines on the functions and outcomes of school learning support teams, including the role of parents in these teams, for distribution to school communities.	Under ESES, the Department developed a training module on Learning Support Teams but the guidelines and outcomes referred to in this recommendation have not been developed.
17.	That the Department of Education and Training include a clear statement on the role and appropriate use of School Learning Support Officers (teacher's aides) in the proposed guidelines on the functions of school learning support teams.	This has not been implemented.
18.	That the Department of Education and Training conduct: <ul style="list-style-type: none"> • a formal independent evaluation of the trial of the School Learning Support Program in the Illawarra and South East Region one year after the commencement of its operation and publish the results of this evaluation • further consultation with key stakeholders before any decision is made to further implement this program. 	A trial and evaluation of the School Learning Support Program was conducted. The Federation deemed that this evaluation was not independent, skewed and fundamentally flawed.
20.	That the Department of Education and Training increase resources for students with identified disabilities in mainstream classes.	Note previous information regarding the SLNI under Term of Reference b.

21.	That the Department of Education and Training coordinate multi-disciplinary teams on a regional level to deliver professional and allied health support services to students with disabilities or special needs in NSW Government schools.	This would appear to be underway under the Department's Rural and Remote Education Blueprint for Action via the establishment of specialist centres to offer coordinated inter-agency health and wellbeing services.
22.	That the Department of Education and Training take immediate action to increase the number of school counsellors in NSW Government schools with the objective of increasing the ratio to 1:500.	The ratio of 1:500 has not yet been achieved.
23.	That the Department of Education and Training: <ul style="list-style-type: none"> • publish the terms of reference and timeline for its review of counselling services in NSW Government schools • consider alternative models for delivering counselling services in schools as part of this review • complete the review by June 2011. 	In March 2015, the Federation welcomed the announcement by Premier Mike Baird of an additional \$80.7 million for the appointment of 236 additional school counsellors under the Supported Students, Successful Students initiative. Regrettably the Department made a unilateral decision in late 2015 to advertise positions for "school psychologists" with no teaching qualifications, over which the Federation and Department have been involved in an industrial dispute.
24.	That the Department of Education and Training publish guidelines on the development of Individual Education Plans for students with disabilities and special needs. These guidelines should: <ul style="list-style-type: none"> • include information on when an Individual Education Plan is required, who should be involved and what it should contain • be distributed to the school community, including parents of students with disabilities or special needs. 	The recommended guidelines have not been developed.
25.	That the Department of Education and Training provide additional resources, including relief time for teachers to develop Individual Education Plans.	These additional resources have not been provided.
26.	That the Minister for Education immediately pursue with the Federal Minister for Education the inclusion of Life Skills as an essential component of the new national curriculum.	Revised Life Skills curricula have been maintained as a curriculum option under the NSW Syllabus.

27.	That the NSW Institute of Teachers review the content of pre-service teacher education courses, including: <ul style="list-style-type: none"> • the mandatory unit in special education • incorporating additional content regarding teaching strategies and practical skills to cater for the learning needs of students with disabilities or special needs • embedding special education throughout pre-service training. 	This review has been undertaken and resulted in a strengthening of pre-service training requisites.
28.	That the NSW Government promote through the national reform agenda that special education be embedded throughout pre-service teacher training.	See 27.
29.	That the Department of Education and Training work towards assisting all School Learning Support Teachers to obtain a special education qualification.	This has not been implemented.
30.	That the Department and Education and Training offer additional opportunities for teachers to undertake retraining programs in special education facilitated by the Department.	The Department expanded its scholarship re-training program under ESES.

In 2016, the Education and Employment References Committee of the Australian Senate conducted an inquiry into current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of support. The inquiry committee made the following top recommendations as a result of its investigation:

Recommendation 1

4.75 The committee recommends that the government commits to funding schools on the basis of need, according to the Gonski Review.

Recommendation 2

4.76 The committee recommends that the government fund all students with disability on the basis of need by reversing its cuts to final two years of the Gonski Reforms.

Recommendation 3

4.77 The committee recommends that the government heeds the warnings of witnesses that linking school funding to the Consumer Price Index will result in funding cuts in real terms and reduce access to education for students with disability.

Recommendation 4

4.78 The committee recommends that the government keeps its commitment to use the Nationally Consistent Collection of Data on School Students with Disability to deliver more funding for students with disability based on their individual needs in 2016.

(The Senate Standing Committee on Education and Employment, 2016, vii)

Further, the Audit Office of NSW conducted a performance audit of the Department in 2016. The aim of the audit was to examine how well the Department is managing the transition to school for students with disability, and supporting teachers to improve these students' educational outcomes.

As cited in the *New South Wales Auditor-General's Report Performance Audit Supporting students with disability in NSW public school*, the following was concluded:

Given the diverse needs of students with disability, the Department is doing a reasonable job in managing how well they transition to a new school and in supporting teachers to improve these students' educational outcomes. However, while some schools support students with disability well, others have more to do before they adequately meet students' needs. This is partly due to cultural resistance in schools, and the lack of expertise of some teachers, regarding disability (Audit Office of New South Wales, 2016, 2).

The Federation acknowledges that the Department has commenced work toward implementing the audit's recommendations. The concluding assessment that the Department is doing only a "reasonable job", however, is one that the Federation finds disappointing and indefensible given the years of reports pointing to the need for urgent investment for improvement.

In recent years, the Department has implemented a range of initiatives to help teachers support students with disability, including extra training and putting disability resources into schools. However, some teachers feel they are still not effectively supported, particularly teachers in regular classes who may be less experienced in teaching students with disability (Audit Office of New South Wales, 2016, 2).

Too many teachers remain unfamiliar with tools such as the PLASST, human resources such as those accessible via the Educational Services team and have limited knowledge if any at all about the targeted support available to students presenting with complex needs.

The Department must take a proactive role in ensuring its employees are familiar with these resources, that they invest in enhancing and improving these resources, and that there is comprehensive policy connecting legislative obligations to system-wide practice and accountability and monitoring such practice.

d. complaint and review mechanisms within the school systems in New South Wales for parents and carers, and any other related matters

The following information does not relate directly to complaint and review mechanisms but does provide recommendations and commentary made by the Audit Office of NSW and NSW Parliament Legislative Council regarding areas to strengthen parent information, engagement and consultation.

The performance audit conducted by the Audit Office of NSW (2016) recommended that the Department:

- improve information on its website for students with disability and their families by:
 - developing clearer, more readily accessible information in plain English
 - providing guidance on reasonable adjustments, including case studies on how schools tailor support to meet students' needs
- provide additional guidance to schools and parents to strengthen their understanding of what effective consultation looks like regarding support for students with disability

The following is an excerpt from the Chair's Foreword of the Final Report of the 2012 Legislative Council Parliamentary Inquiry into the transition support for students with additional or complex needs and their families:

Positive transitions play a key role in the educational outcomes of students, and can lead to better employment opportunities and a more meaningful community life for young people with additional or complex needs.

Unfortunately however the transition support service system in New South Wales is fragmented and complex, with information about transition support difficult to find and hard to understand. Many families are not even aware that transition support or services even exist, and those that are aware struggle to navigate their way around such a disjointed system.

While there is some guidance available to families through case managers and transition support staff, this support is only available for limited periods of time and is not available to everyone. The same issue applies to support services for students with additional or complex needs in general, many of which are withdrawn at key transition points. The lack of continuity in care is exacerbated by the fact that there is no single agency responsible for transition planning and support, and is a major issue for students and their families." (New South Wales Parliament Legislative Council Standing Committee on Social Issues, 2012, xi).

e. any other related matters

Full Gonski implementation enables improvements for students with disability.

The Gonski SWD loading was due for release at the beginning of 2015 but has not been delivered by the Federal Coalition Government. The loading, as detailed in the *Australian Education Act 2013*, is applied at:

- a. 223 per cent of the respective Schooling Resource Standard for students attending a special school
- b. 186 per cent of the respective Schooling Resource Standard for students attending any other school.

The full implementation of Gonski – including the Students with Disability Loading – could deliver:

- additional executive release and specialist teachers to support every teacher working with students with disability
- early and ongoing access to specialist support such as speech pathologists and mental health professionals
- time for teachers and Learning Support Teams to undertake collaborative transition planning with students and their families
- adequate levels of targeted provision (e.g. integration funding, specialist placements) based on need
- ongoing professional learning on effective inclusive practice for all teachers.

Impact of the NDIS and the privatisation of disability services in NSW

The NDIS was established by an act of the Australian Parliament in 2013. The advent of this Act led to the planned withdrawal of the NSW government from the provision of disability services in NSW, thereby abrogating its responsibility to provide disability services. This means the transition of all specialist disability services that had been previously provided by the NSW Government agency Aged, Disability and Homecare (ADHC) to the non-government sector. This transition will be completed by 30 June 2018. This end to services provided by the ADHC will be most significant for schools in now having to contend with the NDIA planners and non-government providers. The Federation has not been provided with any Department protocols or policies developed to guide and support this process in public schools. The ramifications are broad ranging.

This has an immediate effect on students with disability. No longer can schools access specialist services through ADHC on behalf of their students. Instead, the emphasis is on individuals accessing their own services provided by various non-government organisations.

NDIS Principle 2 is of importance:

2. The NDIS will fund personalised supports related to people's disability support needs, unless those supports are part of another service system's universal service obligation (for example, meeting the health, education, housing, or safety needs of all Australians) or covered by reasonable adjustment (as required under the Commonwealth Disability Discrimination Act or similar legislation in jurisdictions).

The Federation is concerned that some of the existing specialist disability services and funding streams provided to schools may no longer be available, as the government will argue that those services are covered by the NDIS.

The existing specialist provision must be maintained. This includes the maintenance of the existing specialist provision for students with complex health needs.

Such provisions must include the employment of specialist professionals, such as community and registered nurses, to conduct medical procedures, such as deep suctioning, frequent administration of emergency medication, monitoring of blood sugar, oxygen levels and airways due to complex lung and degenerative disorders.

The NDIS must never be used to undermine or reduce specialist provision to students with disability.

The other possible impact caused by the NDIS and the privatisation of disability services in NSW is the possibility of a gap being created between those students with “significant and permanent disability” (who are covered by the NDIS schemes) and those students with disability that do not fall into this category (who are not covered by the NDIS). The Federation fears that with the withdrawal of ADHC specialist services, this latter group of students will not be given the support that they require.

The transition phase for the NDIS is July 2016 to June 2018. The Department was to be increasing its preparation over the last 12 months. The timeline was inevitably impacted by the late Baird government election announcement that they would roll out the NDIS in Western Sydney before 2018. At that time, the Department was not ready for this roll out and was reportedly unaware that this announcement was going to be made.

In meetings with the Federation over 2015, the Department had claimed to have little to no information about the impact of the NDIS on schools and how the NDIA will interact with schools. This was due to no school-aged children being in receipt of NDIS support packages in the trial site until last year.

The Council of Australian Governments (COAG) has developed principles to determine the responsibilities of the NDIS and other service systems. School Education is one of these ‘service systems’. When the Federation’s Special Education Restricted Committee first looked at these principles, it identified a number of areas (particularly in SSPs) where the NDIS support packages could and should pick up responsibility and therefore provide funding (such as personal care, therapy, specialist services etc), easing up pressure on existing school/system funds as a result.

The *NDIS Operational Guidelines* (National Disability Insurance Scheme Launch Transition Agency, 2013), which go to the interface with school education, stipulate the following in reference to supports most appropriately funded by the NDIS:

12. The NDIS will be responsible for reasonable and necessary supports that a student requires that are associated with the functional impact of the student’s

disability on their activities of daily living (that is, those not primarily relating to education or training attainment), such as personal care and support, transport to and from school and specialist supports for transition from school education to further education, training or employment that are required because of the student's disability.

Further:

A. *The NDIS is generally more appropriate to fund the following reasonable and necessary supports:*

1. *Assistance with daily personal activities – individualised assistance associated with the functional impact on the participant's activities of daily living, that are required by an individual regardless of the activity they are undertaking, including personal care at school (e.g. for assistance with eating).*
2. *Assistance in coordinating or managing life stages, transitions and supports – specialist support to assist a participant transition to school or to post-school options (e.g. to further education, training or employment) such as building the participant's capacity for independent living and self-care, development of social and communication skills, development of specialist behaviour management plans and enabling the participant to travel independently to their place of education*

Despite these guidelines, when asked about the opportunities the NDIS presents for the adequate support of students with disability in the NSW public education system, the Department indicated that:

- the “NDIS is not tasked with filling gaps”
- the NDIS supports cannot “contravene” schooling obligations and principles
- the NDIS does not replace the obligation of education providers to make reasonable adjustments
- the only change will be the “service provider landscape”.

In other words, the problematic precedent forced to be set by support settings (predominantly SSPs) of going beyond their educational obligations into areas such as health care, will not be addressed via the NDIS in the way the Department and the state government intend to proceed.

Worryingly, not only will the Department not be pursuing systemic funding opportunities for public schools under the NDIS, it appears to want to extend ‘schooling obligations’. The Department has indicated that schools provide education and the NDIS provides disability services but there is a line between the two that is being blurred. The Department has flagged increased health care responsibilities for SSPs, with specific reference to, as they described a “problematic and outdated” agreement between the Department and the Public Service Association, which limits School Learning Support Officers administering certain health care procedures beyond a voluntary basis.

The Department has characterised this as an industrial arrangement that allegedly does not serve the needs or legislated rights of students.

At the time of last formal meeting with the Department regarding the NDIS in 2015, the Department indicated that:

- They were gathering the following information in the Hunter trial site:
 - The number of families accessing packages of support
 - What the engagement between the National Disability Insurance Agency (NDIA) and schools looks like
 - What impact this “new service environment” will have on public schools.
- Some areas impacted will be personal care, therapy provision and transport.
- The Department and individual schools currently have no way of knowing which students are accessing NDIS support packages (which also means they have no idea if a service provider is going to appear at the school to deliver services to the student in the school and/or expect teachers to adopt certain programs/strategies).
- In enquiring whether the student enrolment form might be modified to capture information about NDIS packages, the Department indicated it is not in a position to do this but that they will develop materials for parents/carers to “promote” the sharing of support package information.
- Currently schools can be an identifier of required support for a student and trigger a referral. Currently there is no mechanism for this to happen under the NDIS (and in the absence of ADHC).
- There are plans to develop a NSW government site that will be a single point of information about the NDIS and access for families.
- When enquiring whether the Rural and Remote Blueprint would inform any plans and protocols in relation to the NDIS and public schools, the Department indicated that they are looking at the way the Network Specialist Centres are interacting with other Human Services players and the potential they have to develop relationships with non-government providers.
- The quality assurance of service providers/practitioners is another challenge the Department is looking into.
- The Department emphasised that the *Disability Discrimination Act 1992* will be the anchor point that will support schools with the “changing landscape”.

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Appendices

Appendix 1

NSW Teachers Federation Special Education Policy

Appendix 2

Public Education: An Inclusive System of Provision for Students with Disability

Appendix 3

AEU submission to the 2015 Senate inquiry into current levels of access and attainment for students with disability in the school system and the impact on students and families associated with inadequate levels of support

Appendix 4

NSW Teachers Federation Submission to the Legislative Council inquiry into the provision of education to students with disability and special needs, 2010

Appendix 5

Learning and Support Teacher and Assistant Principal Learning and Support role descriptions

Appendix 6

University of Sydney Research Report: Learning Support in NSW Public Schools

Appendix 7

Expenditure Review of the Department of Education and Training (DET) – Initial Scan