

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

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



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About Uniting

Uniting is one of the largest not-for-profit community service providers in New South Wales (NSW) and the Australian Capital Territory (ACT). Our services include disability services, early childhood education and care and services for vulnerable children, young people and families. We strive to provide quality programs, undertake research and engage in advocacy to break the cycle of disadvantage.

This submission draws on the experience of Uniting Disability, with the exception of our NSW Local Area Coordination Services teams. Our LAC teams only provided us with information that is already on the public record.

Uniting Disability

Uniting Disability plays a lead role in the provision of services for people with disability and their families. Our services work with clients of all ages, with a focus on supporting people with disability to live fulfilling lives and participate in their communities. We offer a range of supports for people with disability, including therapy intervention and support, support coordination, accommodation support, building life skills, assistance with daily living, accommodation support and respite.

Uniting delivered *Stay Connected* in South West Sydney and on the Central Coast for eight years. This unique program provided support for children and young people in Years 5 to 12 with Autism Spectrum Disorder (ASD) and/or intellectual disability who were at risk of school suspension or expulsion and disengagement from education. The program met the holistic needs of the young person, their family and school by offering a diverse range of supports, such as developing a behaviour support plan, social skills programs, advocacy and supporting communication between the student's school, family and other specialists.

Executive summary

Uniting welcomes the General Purpose Standing Committee No. 3's inquiry into the provision of education to students with a disability or special needs in government and non-government schools in NSW.

All children and young people have the right to an education.¹ For students with disability, this involves ensuring equal access to an inclusive, quality education and that they receive the supports needed to facilitate their learning.²

These rights have been enshrined in legislation in Australia, such as the *Disability Discrimination Act 1992* (Cth) which makes it unlawful for an education provider to discriminate against a student on the ground of disability.³ This Act is supported by the *Disability Standards for Education 2005* which set out the rights of students with disability, as well as the legal obligations of education providers.

However despite a legal framework which clearly establishes that students with disability have the right to an education, for many students this is yet to be realised. There are many barriers which prevent students with disability from accessing a quality, inclusive education.

Lack of resources is a major concern, with many schools not receiving sufficient funding to allow them to meet the needs of students with disability. As a result, these students are not receiving the support required to enable them to realise their potential. Students in regional areas face particular difficulty in accessing resources, as there are generally less schooling options and professional services available in such areas.

In recent years the *Every Student, Every School* reforms were introduced to ensure that schools would be equipped to meet the needs of students with disability, however these appear to have had limited impact. For example, despite efforts to improve professional learning opportunities for teachers, many still lack the knowledge and skills required to support the learning of students with disability.

There are also a range of other issues which are impeding the education of students with disability. Many experience exclusion from school through various methods, such as being refused enrolment, only being permitted to attend part-time or frequent suspensions. The level of transition support provided to students also varies greatly, and additional support for students with disability is often limited or non-existent.

The National Disability Insurance Scheme (NDIS) is designed to ensure that people with disability will have access to the supports they need to achieve their aspirations and participate in the community. However, the NDIS will not fund education-specific supports. As such, it is unlikely that the NDIS will lead to significant improvements to the experiences of students with disability in the education system.

¹ *United Nations Convention on the Rights of the Child 1989*, art 28.

² *United Nations Convention of the Rights of Persons with Disabilities 2006*, art 24.

³ *Disability Discrimination Act 1992* (Cth) s 22.

Many of these issues have been highlighted by previous inquiries such as the General Purpose Standing Committee No. 2's 2010 inquiry into the provision of education to students with disabilities or special needs, which indicates that efforts to address them to date have been inadequate. This is supported by statistics which show that the school system is failing to meet the needs of students with disability. For example, in 2015:

- 41% of people aged 15-64 with disability have completed Year 12, compared to 62.8% of people without disability⁴
- 17% of people aged 15-64 years with a disability have completed a Bachelor Degree or higher, compared to 30.1% of people without disability.⁵

Uniting is deeply concerned by the poor educational outcomes of students with disability, as we are strongly committed to the importance of education as a pathway out of disadvantage. Education equips young people with the knowledge and skills to live fulfilling, productive adult lives. We believe substantial reform is needed to address the significant barriers which prevent students with disability or special needs from receiving the quality education to which they are entitled.

⁴ Australian Bureau of Statistics. 2016, 'Disability, Ageing and Carers, Australia: Summary of Findings', <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4430.0main+features202015>

⁵ Ibid.

Summary of recommendations

Recommendation 1

That the NSW Department of Education provide greater funding to schools to ensure that they are adequately resourced to meet the learning needs of all students with disability or special needs.

Recommendation 2

That the NSW Department of Education streamline the process for requesting additional support for students with disability to minimise the length of time taken for a decision to be made and communicated to families.

Recommendation 3

That the NSW Department of Education develop strategies to address the considerable inequities experienced by students with disability in regional areas. These could include:

- mapping the availability of special schools and support classes in regional areas to identify gaps
- improving access to transport assistance for students with disability in regional areas
- strategies to increase the availability of specialist services in regional areas, such as incentive schemes.

Recommendation 4

That the NSW Department of Education work with the tertiary education sector to ensure that all teacher training courses include a greater focus on developing an understanding of the needs of students with disability and behaviour management strategies.

Recommendation 5

That the NSW Department of Education develop strategies to strengthen the provision of ongoing professional development for teachers on working with students with disability and managing challenging behaviours. This should include developing training on how to address the needs of students with disability experiencing mental health issues.

Recommendation 6

That the NSW Department of Education require that all learning and support teachers have a special education qualification and encourages them to participate in ongoing learning.

Recommendation 7

That the NSW Department of Education conduct a review to determine whether existing complaint and review mechanisms are an appropriate way of resolving complaints which concern students with disability.

Recommendation 8

That the NSW Department of Education improve monitoring and accountability to ensure that schools comply with their obligations regarding the enrolment of students with disability.

Recommendation 9

That the NSW Department of Education establish a process for the collection, monitoring and publication of information about whether students with disability attend school part or full time, as well as rates of home schooling and distance education.

Recommendation 10

That the NSW Department of Education strengthen the collection, monitoring and public reporting on school suspension and expulsion data. This should include collecting and publishing data on the number of students with disability who are suspended and the incidence of repeat suspensions.

Recommendation 11

That the NSW Department of Education review policies and practices relating to school suspension and their implementation, with a focus on reducing the incidence and duration of suspension. This should include particular attention on ensuring that students with disability have adequate support, that the school has appropriate strategies for managing challenging behaviour and that suspension is used as a last resort.

Recommendation 12

That the NSW Department of Education develop a policy framework to support students with disability during the transition to school and from primary to high school. This framework should include:

- developing a transition statement for children starting school and students in Year 6
- effective processes to ensure that additional supports are provided for children with disability, based on an assessment of the individual needs of the child and their family
- strong monitoring and accountability of how schools provide support to children and families in the transition to school and move to high school.

Recommendation 13

That the NSW Government ensure the ongoing viability of disability-specific intensive child and family support programs, such as *Intensive Family Support Options* and *Extended Family Support*, which do not fit well with the NDIS individualised funding model. The Government should continue to fund such programs through an alternate funding source which recognises the interrelationship between child wellbeing, engagement in education and disability.

Access to resources

Current funding is inadequate

Schools do not receive sufficient funding to provide students with disability or special needs with appropriate support. This issue was highlighted by the 2010 inquiry into the provision of education to students with disability and special needs, which heard that current levels of funding were ‘grossly inadequate’ and called for a substantial increase in funding for students with disabilities and special needs.⁶ Although the amount of additional disability funding allocated to regular schools has increased in recent years, many schools still do not have sufficient resources to meet students’ needs. Our practitioners report that while some schools are well-resourced, such as schools in disadvantaged areas which receive additional funding, many schools are struggling to meet the needs of students with disability. This is reflected in the findings of Children with Disability Australia’s 2016 National Survey, to which 67% of respondents said that their child with disability does not receive adequate support. 49% reported that this was due to inadequate funding and resources.⁷

As a result of limited resources, students with disability or special needs are not receiving the support they require to realise their potential. There are many students with disabilities who would benefit from additional assistance in the classroom but who do not receive extra funding, such as students whose disability is not officially recognised or who do not satisfy eligibility criteria. Without support these students are likely to struggle to learn at school and are at high risk of disengaging from education.

One way in which schools try to prevent this from occurring is by using alternate sources of funding to meet the needs of students with disability. This appears to be a common practice, with 77% of principals from public schools in NSW and the ACT reporting that they have to assist students with disability using funds from other areas of their budget because they are ineligible for targeted government funding or because the amount they receive is inadequate.⁸

Another way schools try to maximise the number of students who receive assistance is by pooling funding. Although applications for funding are made for individual students, if an application is successful the funding can be used across the school. So, for example, a teacher’s aide in a mainstream classroom may be allocated to assist one or two students with a diagnosed disability, but may work with several other students in the class who also need extra support. While this means that more students will receive additional assistance, it also means that each student will receive less intensive support. As stated by the Australian Education Union, the overall effect of this is that ‘none of the children

⁶ NSW Legislative Council. 2010, *The provision of education to students with a disability or special needs*, pp.xiv-xv, Rec 1.

⁷ Children with Disability. 2016, *CYDA Education Survey 2016 – National Summary of Results*, <http://www.cda.org.au/education-survey-2016-national-results>

⁸ AEU’s State of Our Schools 2015 survey. Results cited in Australian Education Union. 2015, Submission to the Senate Education and Employment Committee, *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*, submission 206, p.9.

needing assistance are receiving it at the level to which they are entitled and the learning experience for every child in the classroom suffers'.⁹

If a school does not have the resources to meet the needs of a student with disability or special needs, our practitioners report that parents may end up trying to address this shortfall at their own expense. For example, they may arrange for a specialist to come to their child's school to talk to staff about how to support the child's needs. This results in inequity, as this option is only available for students whose parents have the financial means. Moreover, even for families of students with disability who do have the means it can impose a considerable financial burden. For example, it can cost \$400 to arrange for a speech therapist to visit a child's school. If the student gets a new teacher each year, their family may have to bear the cost of this every year the student attends school. It is unacceptable that parents of children with disability are incurring inordinate expenses to ensure that their child receives the quality education to which all children are entitled.

The impact of the National Disability Insurance Scheme

The introduction of the National Disability Insurance Scheme (NDIS) marks a significant change in the way that support is provided for people with disability. Under the NDIS, people with disability may be eligible for supports to help them achieve their aspirations, increase their independence and participate in the community.

However the Scheme will not fund supports which would be more appropriately funded by another system, such as education.¹⁰ The only supports which the NDIS will fund in relation to education are those which enable a participant to attend school, where these would similarly be required to enable them to engage in other activities in community life.¹¹ For example, assistance with self-care, specialist transport and transportable equipment, such as a wheelchair or hearing aid. The NDIS may also fund the cost of transport to and from school if a participant is unable to travel independently or cannot be taken to school by their family due to their disability. However the education system remains responsible for funding education-specific supports, such as employing learning and support teachers, making reasonable adjustments (e.g. installing ramps) and addressing student's behavioural issues while at school.¹² Notably the NDIS cannot fund a support for which a school or the education system is responsible, even if it is something which the school or the education system does not provide.

The way in which it is necessary to distinguish between disability and education supports for the purposes of funding is problematic, as often students with disability will have complex, interrelated needs. For this reason, Uniting has been a provider of a number of services which offer a holistic response to the needs of children and young people with

⁹ Ibid, p.8.

¹⁰ National Disability Insurance Agency, *The NDIS and mainstream interfaces*, factsheet, https://www.ndis.gov.au/html/sites/default/files/documents/fact_sheet_how_ndis_works_other_mainstream_systems.pdf

¹¹ National Disability Insurance Agency, *Mainstream interface: School Education*, factsheet, https://www.ndis.gov.au/html/sites/default/files/documents/fact_sheet_supports_ndis_fund_education.pdf

¹² Ibid.

disability and their families. For example, our *Stay Connected* program supported students with ASD who were at risk of suspension or expulsion, their family and their school to help the student remain engaged in education, address their behavioural issues both at school and in the home and assist them to build social connections (as demonstrated by Case Study 1). Funding for niche programs like this which provide a range of supports which cut across several areas is at risk as a result of the introduction of the NDIS. For this reason we believe that the Government should consider funding such programs through an alternate funding source which recognises the interrelationship between child wellbeing, engagement in education and disability. The importance of continued funding for programs which provide holistic support for children with disability and their families is discussed further on pp.23-24.

Case Study 1

Stay Connected worked with Daniel*, a 15 year old with high functioning ASD. He was referred to the program by his mother with the support of his high school. He was only attending school for two periods a week and had been suspended multiple times, including a 20 day suspension. These were generally due to aggressive and violent outbursts targeting teachers and other students. Daniel also had limited social skills and few friends.

Stay Connected caseworkers provided regular one-on-one mentoring for Daniel at home and at school. They conducted classroom observation and provided classroom support. The caseworkers helped foster Daniel's interest in pursuing hobbies and participated in several school holiday activities. Caseworkers supported Daniel's mother in advocating for him during school meetings and also provided her with information about alternative schooling options.

Daniel now completes most of his school work at home through distance education, which has proven to be an ideal setting for his education. He is doing work experience and has joined a sign language club.

During the casework period Daniel made significant improvements, including making progress in social interactions, emotional regulation and self-esteem. His risk of suspension was 'normal' by the time he exited the program and his mother felt equipped with the skills she needed to manage his challenging behaviour.

Recommendation 1

That the NSW Department of Education provide greater funding to schools to ensure that they are adequately resourced to meet the learning needs of all students with disability or special needs.

Department of Education NDIS Transition Coordinators.

We wish to acknowledge that the transition to the NDIS poses significant administrative challenges to schools and to the education system more generally. One challenge arises from the fact that some students with disability will receive funding for educational supports under the NDIS, and that they may choose to obtain these from outside providers. This means that their schools will need to find ways of managing relationships with a much larger number of outside providers than has previously been the case, and of integrating them into the classroom.

To help prepare for this, the Department of Education has established NDIS Transition Coordinators. These positions are working with schools and NDIS providers, including our Local Area Coordination team, to raise awareness of the challenges posed by integrating the NDIS into schools, and to provide advice on managing it. This outreach and education

effort is particularly important because, in our experience, there is a very low level of understanding in the general community about what is funded under the NDIS and what mainstream services like education are expected to pay for. We strongly support the continued existence of the NDIS Transition Coordinators.

Problems with the process for obtaining additional support

If the needs of a student with disability are not being met a request (known as an access request) can be made for additional support, such as a place in a support class, funding for support in a regular class or access to an itinerant support teacher. Our practitioners report that the process of making such a request can be daunting for parents, as it is drawn out and involves considerable paperwork and bureaucracy. These observations echo the issues with the access request process identified by the Audit Office of New South Wales. These include that it is overly prescriptive, time-consuming and that it can take a long time for a decision to be made, as there is no maximum timeframe for processing an access request.¹³

The amount of time it takes to process an access request for a student to transfer from a mainstream school to a support class or special school is particularly problematic. A regional placement panel determines whether a student can be enrolled at the preferred school setting. This can be a very lengthy process as the panel only meets once a term. This means that if a request is made after a panel has just met it may take 12 weeks before the application will be considered. Further, if there are not enough applications it may not be considered until the next panel. In the interim, families are left in limbo and the child will have to continue attending a school which is unable to provide them with appropriate support. In our experience during this waiting period students may become further disengaged from education and their behaviour may escalate, while teachers who are ill-equipped to meet their needs may become burnt out, give up on the student or resort to inappropriate measures such as suspension. We therefore support the Audit Office of New South Wales' recommendation that the access request process should be streamlined to reduce the amount of time students with disability spend at school without the level of support they need.¹⁴

Recommendation 2

That the NSW Department of Education streamline the process for requesting additional support for students with disability to minimise the length of time taken for a decision to be made and communicated to families.

Challenges for students in regional areas

Students with disability and their families who live in regional areas face additional hardships in accessing appropriate resources. The lack of schooling options and professional services available in regional areas are contributing to significant inequities between students in regional and metropolitan areas.

¹³ Audit Office of New South Wales. 2016, *New South Wales Auditor-General's Report Performance Audit: Supporting students with disability in NSW*, p.13.

¹⁴ Ibid, Rec 4.

Parents in regional areas will generally have fewer options available to them when deciding which school to enrol their child in. For example, it is less likely that there will be a specialist school with staff trained in special education and the resources to meet the needs of children with disability in their local area. As a result, parents may end up enrolling their child in a school which is ill-equipped to meet their needs or which is not located close by.

Transport to and from school is a major problem for many students in regional areas. Our practitioners report that lengthy travel times can take a significant toll on students, as it limits the time they can spend on other things, such as playing, spending time with family and friends or therapy. It can also have a detrimental impact on their learning, as students are likely to struggle to engage if they are already exhausted by the time they arrive at school. Further, as public transport options in regional areas are generally very limited, parents may have to take their child to and from school themselves. This can impose a significant burden on their time which can limit them in several ways. For example, it may reduce the amount of quality time they can spend with the child's younger sibling or it may make it difficult for them to find a job with the required flexibility.

Students with disability in regional areas are also disadvantaged in terms of access to specialist support, such as speech pathologists or occupational therapists. Generally there are far fewer specialist services in regional areas than in metropolitan areas. This means that students with disability may miss out on receiving supports which would aid their learning and development because of their geographical location.

As a consequence of such inequities, some parents of children with disability who live in regional areas may move to a larger town or metropolitan area to improve their child's access to the resources and services needed to support their education.¹⁵ While this may improve the educational opportunities for the child with disability, it can also place a significant burden on families. For example, the child's siblings may also have to change schools, parents may have to find new jobs, moving may isolate the family from their support network and living in a larger centre may be more expensive. We believe that it is unjust that parents of students with disability may have to uproot their families to ensure their child can access the resources and support they need to realise their potential in school.

Recommendation 3

That the NSW Department of Education develop strategies to address the considerable inequities experienced by students with disability in regional areas. These could include:

- mapping the availability of special schools and support classes in regional areas to identify gaps
- improving access to transport assistance for students with disability in regional areas

¹⁵ Dew, A., Happ, V., Bulkeley, K., Bundy, A. Lincoln, M., Gallego, G., Brentnall, J. and Veitch, C. 2014, 'Rural carers of people with disability: Making choices to move or to stay', *Research and Practice in Intellectual and Developmental Disabilities*, 1(1), pp.60-70.

- strategies to increase the availability of specialist services in regional areas, such as incentive schemes.

Every Student, Every School

In 2012 the NSW Government introduced the *Every Student, Every School* reforms, which aimed to ensure that all schools would have the resources required to support the needs of students with disability. This was to be achieved through various initiatives, including professional learning opportunities for teachers and improving the availability of learning and support teachers. However the impact of these reforms appears to be limited, with our practitioners reporting that they have observed little improvement since the policy was introduced.

Professional learning for teachers

One of the main aspects of *Every Student, Every School* was to give teachers more professional learning opportunities. As part of this initiative the NSW Department of Education introduced training on a range of topics designed to improve teachers' knowledge and skills in meeting the needs of students with disability. While this is a positive development, much more is required to ensure that all teachers are equipped to meet the diverse learning needs of students with disability.

Many teachers lack the understanding and skills required to manage the behaviour of students with disability and support their learning. This is reflected in the views of teachers themselves, many of whom report feeling ill-equipped to provide support for students with disability.¹⁶ For example, a 2015 survey found that 61% of graduate teachers in NSW and the ACT do not feel that their training and professional development adequately prepared them for teaching students with disability.¹⁷ This is unsurprising given that initial teaching degrees contain limited content about disability and behaviour management strategies. While NSW is one of the few states in which all accredited teaching courses include a unit on special education, there is some concern about their adequacy. Research suggests that such courses may be taught by people who lack expertise in the area and may not equip teachers with practical skills required to meet the needs of students with disability, such as behaviour management strategies.¹⁸

As a consequence, teachers who have students with disability in their class may not know how to deal with challenging behaviour or even recognise when a student's misbehaviour is occurring because of a disability. If teachers are unable to support a child's learning or to manage their behaviour, this can be a significant source of stress for teachers and may lead to inappropriate suspensions. It is also frustrating for the student who is unable to learn because their teacher does not know how to accommodate their learning needs. It is therefore critical that this gap is addressed by improving initial teacher training on

¹⁶ Audit Office of New South Wales. 2016, *New South Wales Auditor-General's Report Performance Audit: Supporting students with disability in NSW*, p.3.

¹⁷ AEU's State of Our Schools 2015 survey. Results cited in Australian Education Union. 2015, *Submission to the 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*, submission 206, p.30.

¹⁸ Stephenson, J., O'Neill, S. & Carter, M. 2012, 'Teaching students with disabilities: a web-based examination of preparation of preservice primary school teachers', *Australian Journal of Teacher Education*, 37(5), pp.13-23.

inclusive education, as this is regarded as one of the best ways to ensure that students receive an effective education.¹⁹ Such training should be embedded throughout teaching degrees and should include strategies for behaviour management.

It is also critical that teachers are supported and encouraged to participate in ongoing professional development to improve their understanding of disability and build their capacity to meet students' needs. Although some teachers attend training on disabilities such as ASD or Attention Deficit Hyperactivity Disorder, generally participation is voluntary and limited to one or two one-off sessions. Such training is likely to be inadequate because, as asserted by the Australian Advocacy Board on Autism Spectrum Disorder, 'ad-hoc or one off professional development does not result in meaningful change'.²⁰ Effective professional development would involve all teachers participating in ongoing training which equips them with the knowledge and skills to support the learning of students with disability and to manage challenging behaviour. It is also critical that schools have sufficient resources to support teachers to participate in professional development. This can be quite costly for schools, as they not only have to cover the cost of the training itself but also relief time to release staff from class so that they can participate.

Our practitioners report that a particular area in which many teachers would benefit from further training is mental health, as many students with disability or special needs also have mental health issues. This is reflected in statistics which show that 40% of people who have an intellectual disability are experiencing mental health difficulties.²¹ In our experience teachers often do not know how to address the complex needs of such students, as illustrated by Case Study 2.

Case Study 2

Holly is a 14-year-old client of a Uniting Disability service with a moderate intellectual disability. She also has severe mental health issues and has inflicted self-harm on several occasions. Holly is in a Mild Intellectual Disability (IM) class at a mainstream school.

Holly tries to use any object for self-harm, such as sharp rocks, glass and razor blades from pencil sharpeners. Her school has struggled to provide the supervision necessary to manage this behaviour and on several occasions teachers have found her in the midst of self-harming, sometimes in front of other students. Previously when Holly was caught self-harming the school's only strategy was to call an ambulance. This caused Holly's behaviour to escalate and resulted in ambulance staff having to restrain her.

A Uniting practitioner has worked closely with the school to develop alternate plans for managing Holly's behaviour. We are trying to enrol Holly at a mental health school, however this is yet to be achieved.

¹⁹ Centre for Disability Studies. 2014, *Supporting students with Autism Spectrum Disorder and challenging behaviour within school settings*, p.38.

²⁰ Australian Advisory Board on Autism Spectrum Disorders. 2012, *The interface between Autism Spectrum Disorders and Mental Health: The Ways Forward*.

²¹ NSW Teachers Federation. 2014, *Public Education: An Inclusive System of Provision for Students with Disability*, citing Coughlan, B. 2011, 'Critical issues in the emotional wellbeing of students with special education needs in the 21st century', *The REACH Journal of Special Needs Education in Ireland*, 24(2), pp.57-75.

Recommendation 4

That the NSW Department of Education work with the tertiary education sector to ensure that all teacher training courses include a greater focus on developing an understanding of the needs of students with disability and behaviour management strategies.

Recommendation 5

That the NSW Department of Education develop strategies to strengthen the provision of ongoing professional development for teachers on working with students with disability and managing challenging behaviours. This should include developing training on how to meet the needs of students with disability experiencing mental health issues.

Learning and support

Another aspect of the *Every Student, Every School* policy was to establish learning and support teachers in every mainstream school. The General Purpose Standing Committee No. 2 recommended that the Department to do so after hearing that the quality of learning and support teams was highly variable and that some schools did not even have one.²² Since 2012 the Department has introduced 1,800 learning and support teachers at schools in NSW. Uniting supports this initiative, as these teachers play an important role in monitoring and supporting the learning of students with disability or special needs.

However in our experience there may be several barriers which can limit the extent to which having a learning and support teacher at a school will benefit students with disability. Learning and support teachers are not required to have special education qualifications, and therefore may lack the skills required to perform their role effectively. Further, as such teachers often work alone and they may have a large number of students in their load. Another issue is that learning and support teachers generally have little power and limited resources. For example, a learning and support teacher may develop an individual education plan for a student, however the student will not benefit from this if it is not used in practice because of factors such as lack of time and resources or teacher workload. Unless learning and support teachers are adequately resourced and schools are genuinely committed to providing an inclusive, quality education for all students, they are likely to be limited in what they will be able to do to improve the education experience of students with disability.

Recommendation 6

That the NSW Department of Education require that all learning and support teachers have a special education qualification and encourages them to participate in ongoing learning.

²² NSW Legislative Council. 2010, *The provision of education to students with a disability or special needs*, pp.xv, Rec 13.

Complaint and review mechanisms

It is critical that there are effective complaint and review mechanisms within the school system so that parents or carers who have a complaint can be heard and seek appropriate action. Uniting is concerned that families of students with disability are reluctant to use these mechanisms because of the substantial time and effort involved in making and resolving a complaint.

Under the current system a person who wants to make a complaint is supposed to discuss it with the child's teacher or school principal in the first instance. If the issue cannot be resolved through these informal methods, the person is required to make a written complaint to the NSW Department of Education. The way the complaint is then dealt with will depend on what it is about, but may include further discussions with the teacher or principal, or an investigation if the complaint is more serious. As a person making a complaint is expected to try to resolve an issue at the lowest level first, this makes the process time-consuming and means that they may have to go through several tiers before making any headway on getting the issue resolved.

While this system may be adequate for dealing with complaints generally, we are concerned that some parents of children with disability are not utilising it even in circumstances when they have a legitimate complaint. Many families of children with disability are already under a high level of stress.²³ For example, the financial strain caused by the additional costs involved in raising child with disability, time spent taking their child to appointments or having limited time available to spend with the siblings of a child with high support needs. Consequently, for parents of a student with disability the decision about whether to make a complaint if they are dissatisfied with an aspect of their child's education is often a difficult one. Already under a high degree of strain, they must decide whether they are able to invest the considerable amount of time and effort involved in making a complaint, and with no guarantee that a satisfactory outcome will be reached (as illustrated by Case Study 3).

Case Study 3

Ashleigh is Year 10 student and a client of Uniting Disability. She has high functioning ASD and significant mental health issues. Due to an infection and nerve damage in her back Ashleigh had to be in a wheelchair for seven months.

Ashleigh was attending mainstream classes at a mainstream school. The school was multilevel and was not wheelchair accessible. As Ashleigh's classes were held on the top level her father would have to take her up to the top level of the building in the morning so that she could attend her classes.

Ashleigh's mother made a complaint about the situation. Despite several conversations with the school principal and staff from several tiers of the NSW Department of Education, the issue was not resolved. Ashleigh was put in distance education and did not return to a school setting.

²³ See, for example, Cuskelly, M. and Hayes, A. 2004, 'Disability: Characteristics, contexts and consequences', in Bowes, J. and Hayes, A. (eds), *Children, families, and communities: Contexts and consequences* (3rd ed), Oxford University Press, South Melbourne.

Our practitioners report that some families do not end up making official complaints for this reason. This is concerning, as it means that the student concerned may continue to have poor experiences at school. Depending on the nature of the issue it may also have a detrimental impact on other students: if an issue is not brought to the Department's attention then unsatisfactory practices which also impact on other students with disability may continue to occur. Further, if complaints are only made in a minority of cases this will make it more difficult for the Department to identify systemic problems that are affecting many students with disability. In light of this, Uniting recommends that the Department should undertake a review to assess whether the current complaint and review mechanisms are an effective and appropriate way of dealing with complaints which concern students with disability.

Recommendation 7

That the NSW Department of Education conduct a review to determine whether existing complaint and review mechanisms are an appropriate way of resolving complaints which concern students with disability.

Other related matters

Exclusion from school

One of the biggest barriers which students with disability and their families face in accessing education is exclusion from school. Despite these children having the right to equal opportunities to receive a quality education, many are denied such opportunities. Students with disability are excluded through a variety of practices including refusing enrolment, only permitting a child to attend school part-time and encouraging parents to consider home-schooling.

One way in which students are excluded is by preventing or discouraging parents from enrolling their child in the school of their choice. This can occur by formally refusing the child's enrolment or by parents being strongly advised that their child would be better off in a different setting, such as a support class or special school. Children with Disability Australia's 2016 National Survey found that 8% of students with disability had been refused enrolment.²⁴ Of those, 33% reported that no reason for this was given other than that the school would not accept a student with disability, while 25% said it was because the school had inadequate resources.²⁵ As a result of such practices, parents may end up enrolling their child at a school which is not their preference. For example, a parent who is strongly discouraged from enrolling their child at their local mainstream school may end up enrolling their child at a special school even though they do not believe that this is in their best interests.

Some students with disability are also excluded from school by only being permitted to attend part-time. A school may prescribe that a child can only attend school on certain days and/or for a limited amount of time. For example, Uniting had a client who was only permitted to attend school for 15 minutes a day. Unfortunately this is not an isolated example, with a survey finding that 12% of students with disability did not attend full time, with 49% reporting that the reason for partial attendance was because the student's school was unable to adequately meet their needs.²⁶

If a school is unable to provide adequate support for a student with disability, parents may be encouraged to consider home-schooling. Our practitioners report that this practice seems to be becoming more common. While there may be circumstances where home-schooling is the most appropriate option for a particular child, we are concerned that some parents may be taking this option because they feel like they do not have a choice rather than because they genuinely believe that it is what is best for their child.

Uniting is deeply concerned that these exclusionary practices continue to occur despite several previous inquiries which have highlighted this issue.²⁷

²⁴ Children with Disability. 2016, *CYDA Education Survey 2016 – National Summary of Results*, <http://www.cda.org.au/education-survey-2016-national-results>

²⁵ Ibid.

²⁶ Ibid.

²⁷ See, for example, Senate Education and Employment References Committee. 2016, *Access to real learning: the impact of policy, funding and culture on students with disability*, pp.16-20.

Recommendation 8

That the NSW Department of Education improve monitoring and accountability to ensure that schools comply with their obligations regarding the enrolment of students with disability.

Recommendation 9

That the NSW Department of Education establish a process for the collection, monitoring and publication of information about whether students with disability attend school part or full time, as well as rates of home schooling and distance education.

School suspension

Students with disability are also excluded from school through suspension. Although the Department does not publish data on the number of students with disability who are suspended, our practitioners report that there are high rates of suspension of students with disabilities, particularly those with ASD and/or who exhibit challenging behaviour.

This is problematic given that research shows that suspension is not effective in changing students' behaviour, as it does not address the underlying issues that cause it.²⁸ Repeated suspensions can intensify a student's academic difficulties and puts them at greater risk of disengagement from learning and early school leaving.²⁹ Suspension can also have significant negative impacts on the student's family. Parents who are frequently required to care for their child during school hours may be unable to sustain employment. This can be an additional source of stress for parents and can contribute to the disadvantage experienced by children with disability and their families. Another concern is that if students are suspended frequently their family may end up using core supports to provide assistance during school hours. This means that families will miss out on having a break at other times, such as during after school hours or on the weekend. In some cases the additional strain on the family caused by a student's repeated suspensions can lead to the breakdown of the family unit and child protection issues.

Recommendation 10

That the NSW Department of Education strengthen the collection, monitoring and public reporting on school suspension and expulsion data. This should include collecting and publishing data on the number of students with disability who are suspended and the incidence of repeat suspensions.

School suspension policies and practices

In NSW school suspension policy and procedures are set out in the *Suspension and Expulsion of School Students – Procedures 2011*. The procedures set out the general principles which principals must follow when deciding whether to suspend a student, the factors they must consider and the steps that must be taken. They include a number of

²⁸ See Beauchamp, T. 2012, *Addressing high rates of school suspension*, UnitingCare Children, Young People and Families.

²⁹ Hemphill, S., Toumbourou, G., Kendall, G., Rowland, B., Freiberg, K. and Williams, J. 2010, 'Are rates of school suspension higher in socially disadvantaged neighbourhoods? An Australian study', *Health Promotion Journal of Australia*, 21(1), pp.12-18.

provisions designed to prevent students with disability from being disadvantaged. For example, in implementing the procedures principals must ensure that no student is discriminated against on the ground of disability and take into account any disability and the developmental level of students.³⁰ Consideration must also be given to the requirements of the *Disability Discrimination Act 1992* (Cth), the *Disability Standards for Education 2005* and the *Anti-Discrimination Act 1977* (NSW). These include that schools are required to make reasonable adjustments to support students with disability to access and participate in education on the same basis as other students.³¹

Despite these apparent safeguards, students with disability are vulnerable to suspension due to the way school suspension policy is implemented. In our experience the extent to which schools adhere to the procedures varies considerably, and is affected by factors such as school culture, the attitudes of the principal and resources. Uniting is concerned that some schools may be suspending students with disability in circumstances or in ways which contravene policy. Other disability service providers and advocacy organisations have expressed similar concerns. For example, Disability Advocacy NSW receives many complaints about inappropriate suspensions of students with disability and has said that many schools do not appear to be following the proper suspension procedures, such as providing parents with an explanation of why their child has been suspended.³²

Recommendation 11

That the NSW Department of Education review policies and practices relating to school suspension and their implementation, with a focus on reducing the incidence and duration of suspension. This should include particular attention on ensuring that students with disability have adequate support, that the school has appropriate strategies for managing challenging behaviour and that suspension is only used as a last resort.

Transition support for students with disability

It is critical that children with disabilities and their families are supported through key transitions in the education system. This is because research shows that children who make a smooth transition and experience early school success are more likely to be socially competent and achieve better results throughout their schooling.³³ Conversely, children who experience academic and social difficulties when they start school are likely continue to have problems throughout their school careers, and often these persist into adulthood.³⁴ Despite clear evidence of the importance of transition support, the level of

³⁰ NSW Department of Education. 2011, *Suspensions and Expulsion of School Students Procedures -2011*, 4.4 and 4.5, https://education.nsw.gov.au/policy-library/associated-documents/suspol_07.pdf

³¹ Ibid 4.6.

³² Stevenson, A. 2011, 'Parents of disabled children rebel against suspensions', *The Sydney Morning Herald*, 7 July, <http://www.smh.com.au/nsw/parents-of-disabled-children-rebel-against-suspensions-20110706-1h2p0.html>

³³ Australian Institute of Health and Welfare. 2011, *Headline indicators for children's health, development and wellbeing*, Cat. No. PHE 144, AIHW, Canberra.

³⁴ Ibid.

support provided to students during transitions is variable and additional support for students with disability is often limited or non-existent.³⁵

Level of support during transitions is variable

In our experience, the nature and level of support provided during transitions in education varies considerably across schools. This is consistent with the findings of a 2014 study which examined transition processes for students with developmental disabilities at government primary and high schools in NSW. The study found that while some schools have effective programs to support students in the transition process, in other schools an orientation session in the term prior to starting school was the only transition support offered.³⁶ The extent of transition support provided largely depends on local decision-making and whether the school leadership team considers it to be a priority. It can also be affected by whether a primary school has good relationships with local early childhood education and care services or, in the case of high schools, local feeder primary schools.

Lack of additional support for students with disability

Generally students with disability and their families receive little or no additional support when starting school or when moving from primary to high school. This is concerning as students with disability may find transitions particularly difficult and may end up on a negative trajectory if they do not receive the appropriate support. For example, students with ASD often do not cope well with changes in environment or routine. Without additional support such students are likely to struggle with the transition to high school and their heightened anxiety may result in challenging behaviours. This can set in train a cycle of repeated suspensions and exclusion from school.

Notably in 2012 the NSW Legislative Standing Committee on Social Issues recommended the introduction of legislation mandating transition planning for students with additional or complex needs.³⁷ The NSW Government did not support this recommendation on the basis that all students have transition needs in education and that there are practical difficulties with a mandated approach to provisions for some students and not others.³⁸

However, as discussed above, our experience is that the level and nature of transition support varies considerably between schools, and students with disability are not receiving the additional support they require. A policy framework should be developed to support all students during key transitions, including the transition to primary school and moving from primary to high school. As transition support is particularly critical for

³⁵ For further discussion, see UnitingCare Children, Young People and Families. 2015, *Submission to the Senate Education and Employment References Committee's inquiry into current levels of access and attainment for students with disability*, submission 243.

³⁶ Strnadova, I. and Cumming, T. 2014, 'The importance of quality transition processes for students with disabilities across settings: Learning from the current situation in New South Wales', *Australian Journal of Education*, 58(3), pp.318-336.

³⁷ Legislative Council Standing Committee on Social Issues. 2012, *Transition support for students with complex needs and their families*, report 45, rec 23.

³⁸ Legislative Council. 2012, *NSW Government Response: To the Inquiry into Transition Support for Students with Additional of Complex Needs and Their Families*, p.20.

students with disability, special attention should be paid to any additional needs that these students may have during transitions and how these can be met.

Recommendation 12

That the NSW Department of Education develop a policy framework to support students with disability during the transition to school and from primary to high school. This framework should include:

- developing a transition statement for children starting school and students in Year 6
- effective processes to ensure that additional supports are provided for children with disability, based on an assessment of the individual needs of the child and their family
- strong monitoring and accountability of how schools provide support to children and families in the transition to school and move to high school.

Programs which provide holistic support

Uniting supports the National Disability Insurance Scheme (NDIS) as a way of giving people with disability greater choice and control over their lives. However the introduction of the NDIS has also brought the ongoing viability of successful programs which do not fit well with the NDIS model of individualised funding packages into question.

Uniting's *Stay Connected* program, which provided holistic support for students with disability, their family and their school in order to help students remain engaged in school and build community connections, has essentially been defunded. We are concerned that several other programs we deliver may also be at risk as a result of the transition to the NDIS. These include our *Intensive Family Support Options* and *Extended Family Support* services which support children with disability and their families to resolve immediate issues, build their capacity to manage future crises and ensure they have access to appropriate services.

These programs are currently funded through block grants by Ageing, Disability and Home Care, but under the NDIS funding for these programs is expected to come from individualised plans. However several features of these programs mean that they do not align well with the NDIS funding model.

The NDIS funding model provides for short-term supports at a lower level of intensity. It does not adequately cater for the expenses involved in delivering the intensive support these programs provide.

The NDIS pricing structure also does not accommodate the additional costs of employing staff with the skills and qualifications required to provide clients with effective support. For example, *Stay Connected* caseworkers need to be degree-qualified and highly skilled in order to be able to support clients and build strong relationships with schools. Further, to be able to attract, retain and fund such staff, organisations need to be guaranteed client flow in a way that establishes a sustainable business model. If this is not possible,

organisations may be forced to withdraw services due to viability issues, as has occurred in the Barwon trial site.

Another issue is that the NDIS is targeted at helping individuals with disability to meet their personal needs and goals. By contrast, our approach with programs like *Stay Connected* is holistic. Practitioners not only work with children with disability to meet their needs, but also their family members, school and relevant specialists. As such, the intent of the individualised NDIS funding model and such programs are fundamentally at odds.

Programs such as *Intensive Family Support Options* and *Extended Family Support* are also not well-suited to the NDIS model as they provide intervention to prevent issues from escalating, as well as support during crises should they arise. An individual's need for such support is often difficult for clients to articulate and predict, however this is what is required when developing a plan for an NDIS participant.

Due to the difficulties of transitioning holistic programs like *Intensive Family Support Options* and *Extended Family Support* to the NDIS, these programs may need to be funded through an alternative source which recognises the interrelationship between child wellbeing, engagement in education and disability. Uniting believes that continued funding for these programs will provide a long-term return on investment for the Government, as it will reduce the significant costs which may be incurred if vulnerable children with disability and their families do not receive the support they need (e.g. the cost of supporting a child who is relinquished into care).

Recommendation 13

That the NSW Government ensure the ongoing viability of disability-specific intensive child and family support programs, such as *Intensive Family Support Options* and *Extended Family Support*, which do not fit well with the NDIS individualised funding model. The Government should continue to fund such programs through an alternate funding source which recognises the interrelationship between child wellbeing, engagement in education and disability.