

**Submission
No 173**

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

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General Purpose Standing Committee Number 3

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

To whom it may concern

I write this submission from my perspective as the parent of a 13 year old boy, who has enjoyed mainstream education in the NSW Governments system since 2009.

Despite once being labelled by NSW DET Regional Office as the “most disabled child ever to be mainstreamed” his primary school years, after some early teething problems, were highly successful both academically and socially and he and his school were one of the 10 case studies highlighted in the Federal Government’s “Disability Standards for Education 2005 - Exemplars of Practice¹” published last year.

So it important to ask the question how can a child go from being heralded as an “Exemplar of Inclusive Education” to a complete breakdown of all social and academic opportunities simply by moving 3km up the road to high school.

The laws including the education standards, government department and the funding have all remained the same. And yet, a child once experiencing ‘best practice’ examples of inclusive education, being a valued member of his school community and experiencing academic success is now socially isolated and being denied meaningful academic participation through the failure of appropriate supports... and worse, this 13 year old boy is being judged and made personally responsible for the failings of the adults responsible for making it work.

This is nothing to do with the funding or the laws and everything to do with the leadership and the culture that leader has fostered at a given school.

We’ve used the following quote to explain to our son just what he might be experiencing...

**“When you are accustomed to privilege,
equality feels like oppression.”**

[source unknown]

At the school our son is now attending the leadership has managed to ‘hunt off’ every child with significant disabilities for the last 20+ years from the mainstream environment. So when our child with significant disability turned up to attend his local school, in his local community in the mainstream classes - everyone was ill prepared and there was little compulsion by the leader to allow this preparation to occur. The teaching staff had been so let down by their leader by not having had the chance to operate in inclusive environments they “don’t know what to do”. They don’t operate within a human rights framework, or within the Education Standards for Disability, they likely don’t have a good understanding of what they even are.

My son’s right to ‘equality’ makes them feel like they are being ‘oppressed’ because they are out of their depth, they don’t have leaders supporting them or willing to allow them to work in

¹ <https://docs.education.gov.au/documents/exemplars-practice> Case Study: Mac p7

partnership with families because the culture of the school is such that parental engagement is seen as public enemy number one.

The system isn't totally broken, but individual leaders, many school counsellors and some teachers within the system are. They need to be held to account and there needs to be better mechanisms for this to happen. As parents we often can't complain officially as that would lead to the complete breakdown of relationships we are trying to build. There needs to be independent options for managing these complex situations.

With specific regard to the terms of reference...

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

A student needs what a student needs. Once schools and families are working in collaboration to determine the appropriate supports required and they are then provided to students based on their individual need then that's when successes will start to occur.

To not provide the appropriate supports during the school years has long term consequences and far greater costs to governments. Those living inclusive lives post school, often working or engaged in their communities, contributing by volunteering, employing their own supports and so on are a value add in so many ways. Compare this to students who are churned through segregated settings, under-educated, funnelled into day programs or "disability enterprises" (the new name for sheltered workshops) where they are unlikely to receive a living wage to allow them to move into their own homes, afford holidays or even experience ordinary, social experiences on their own terms. The lack of investment in our students throughout their 13 years in the school system is false economy.

(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 tagline of the ESES policy is "we must find better ways of ensuring that we meet the additional learning and support needs of every student in every school." Sadly, this remains, for the most part, simply 'lip-service'. There is no real commitment to find better ways, particularly if it means "changing the way things have always been done". The NSW DET is a huge juggernaut of a department that needs strong leadership and courage to change if it is to truly meet the needs of every student in every school. Funding is important, however I am convinced "mindset" is the stumbling block.

Despite there being no evidence to support segregation in education we still hear lines like "Special Schools as Centres of Excellence"... this is dishonest and misleading language. There IS NO EVIDENCE to support the existence of special schools or support classes and yet we keep feeding students into them, convincing parents they are better for their children without ever producing the evidence to support this. Those in the education system recommending these segregated settings need to be held accountable, it is professional negligence, there needs to be much more done to ensure this dishonesty and misinformation is halted. The worst offenders in our experience are the Principals and the School Counsellors. Serious professional development and, perhaps, even a process of re-certification needs to occur if these people feel they should continue in these roles and be able to meet their legal and professional obligations in relation to students with disabilities in NSW.

(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

Of all the recommendations in the 2010 report the one that seems to be embraced the most is the development of Autism specific classes. The problem is these classes, despite being recommended in that report are not evidence based. They are damaging to our society and to the

students they claim to serve. If we are looking at whole of life outcomes for students then these segregated settings cannot provide for good outcomes in line with the National Disability Strategy.

On Friday 26 August 2016 the United Nations Committee on the Rights of Persons with Disabilities (Committee) adopted a General Comment relating to the Convention on the Rights of Persons with Disabilities (CRPD) being (General Comment No. 4) to Article 24 (The Right to Inclusive Education).

Article 24.2 of the CRPD provides:

“In realizing this right, State Parties shall ensure that:

Persons with disabilities are not excluded from the general education system on the basis of disability, ...;

Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;

Reasonable accommodation of the individual’s requirements is provided;

Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;

Effective individualised support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.”

Some of the recommendations from the Upper House report of 2010 are now at odds with the current position of the CRPD and subsequently need to change to bring us in line with our obligations under the CRPD.

Members of this review committee should familiarise themselves with the entire general comment.

(d) complaint and review mechanisms within the school systems in New South Wales for parents and carers, and

An Independent body should be developed, at least in the short term, to assist families and vulnerable students to manage the breaches of human rights, education standards and discrimination laws they may face on a regular and ongoing basis. To expect families to pursue these through formal DET complaint processes and further damage often fraught relationships is unreasonable. The establishment of an independent body may actually see many of these issues resolved and enhanced with long term benefits for many students.

(e) any other related matters.

As long as a parallel system of segregated schools and support classes exist we have no way of creating inclusive and welcoming environments either in schools or the community for children or adults with disabilities. The mere presence of these units suggest that people with disability belong in “special places”. This is at odds with the CRPD and the National Disability Strategy and is, quite simply, wrong.

The continuation to fund these units and schools is false economy. Many politicians and government officials will hide behind the concept of “parental choice”. However, the CRPD General Comment clearly states that parental choice is subordinate to the child’s right to an inclusive education.

To remind the committee what inclusive education actually is I provide the following summary from the CRPD General Comment...

10 *Inclusive education is to be understood as:*

- a) *A fundamental human right of all learners. Notably, education is the right of the individual learner, and not, in the case of children, the right of a parent or caregiver. Parental responsibilities in this regard are subordinate to the rights of the child.*
- b) *A principle that values the well-being of all students, respects their inherent dignity and autonomy, acknowledges individual requirements and ability to effectively be included in and contribute to society.*
- c) *A means of realizing other human rights. It is the primary means by which persons with disabilities can lift themselves out of poverty, obtain the means to participate fully in their communities, and be safeguarded from exploitation.² It is also the primary means through which to achieve inclusive societies.*
- d) *the result of a process of continuing and pro-active commitment to eliminate barriers impeding the right to education, together with changes to culture, policy and practice of regular schools to accommodate and effectively include all students.*

The reality is, yes, this will require investment, courage and commitment from the Government of the day, however, the alternative is just not worth it.

Please feel free to contact me if you require any further information or clarification.

Kind regards

Gina Wilson-Burns

² CESCR E/C.12/1999/10