

**Submission
No 136**

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

Organisation: Intellectual Disability Rights Service Inc.

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The Director
Legislative Council General Purpose Standing Committee No. 3
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Dear Director,

Inquiry into the provision of education to students with a disability or special needs in government and non-government schools in NSW

Thank you for the opportunity to provide submissions to this inquiry.

About the Intellectual Disability Rights Service

The Intellectual Disability Rights Service ('IDRS') is a community legal centre and disability advocacy service that provides legal and other advocacy for people with intellectual disability throughout New South Wales. IDRS advocates for policy and law reform and undertakes a range of community education with a view to advancing the rights of people with intellectual disability.

In the last three years, IDRS gave advice to the parents or carers of 64 children with intellectual disability. 75% (48) of those children had autism in addition to intellectual disability. These submissions draw on data obtained from the records of those advices.

Submissions on term of reference (a):

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

Review of our data shows that some parents of children who attend smaller mainstream schools (rural and metropolitan) with no disability support unit reported concerns that the extra funding the school receives for enrolling their child is not spent on the supports the child needs, but instead goes into the school's consolidated funds. They are not able to easily access the information that they need to either confirm or refute their suspicions, so a situation of mistrust develops.

The concern that funding is not being spent on supporting the child for whom it was allocated is particularly an issue for those children with an intellectual disability who are able to sit quietly without disrupting the class. One parent reported that their child was not given any schoolwork and not expected to participate, instead being left to draw at the back of the classroom whilst the other children got on with their lesson. This child was capable of learning if included in the class and provided with the support the child was funded for. Without support, the child's prior reading skills actually deteriorated during the primary school years and no new skills in other areas were acquired.

Money allocated for teaching assistance for a child with challenging behaviours is likely to be spent on a teaching assistant for the child, if only to spare the teacher and the rest of the class the disruption that will otherwise occur, but it appears that good intentions about giving a quiet child with an intellectual disability 'extra attention' rather than actually employing a dedicated assistant may not work out in practice.

On the other hand, where parental concern is unfounded, the swift provision of relevant information will allay concerns immediately and foster trust in the school system, to the ultimate benefit of all concerned.

IDRS considers that, where schools have received additional funding to support a child with a disability, they should provide information to the parent or carer of that child regarding the allocation of such funding, if requested to do so.

Submissions on term of reference (d):

Complaint and review mechanisms within the school systems in New South Wales for parents and carers.

Issues relating to behavioural management of students with autism are the most common school-related matter brought to IDRS by parents and carers

One significant trend was immediately apparent.

Almost all the children whose parents contact IDRS regarding issues with schooling have autism, usually in combination with an intellectual disability, and their problems almost invariably relate to the school's use (or non-use) of behavioural support strategies. By comparison, only around 12% of IDRS' overall client base have the dual diagnosis of autism and intellectual disability.

Parents and carers often report difficulty in their communication with the school

A common thread in many complaints is difficulty in communicating with the principal and other key school staff. Several parents have reported feeling bullied, patronised or ignored by school principals. Processes that are supposed to be a collaboration with parents, such as the development of behaviour support plans, are devised by the school with no parental input at all.

Parents and carers report feeling frustrated that their knowledge of and insights into their child's behaviour are ignored. One mother of a child with autism and intellectual disability told us that she repeatedly asked her son's travel assistant to just sit quietly with the child during the one hour trip to and from school, because she knew that extra stimulation on top of the stimulation of travel would lead to behavioural outbursts. The assistant insisted on attempting to entertain and engage the child, and the resulting behavioural problems led to the child being banned from the transport service until the issue could be resolved.

Difficulty with communication often arises when there are issues with behaviour support plans

Where students are accused of fighting, bullying or violent behaviour, principals must balance the safety of other students and staff as well as the right of the child to receive an education. It can be extremely difficult to resolve such situations to the satisfaction of all concerned. When there is poor communication between school and parents resolution becomes more difficult.

By the time a parent or carer calls IDRS about the school's management of their child's behaviour, the problem has usually been going on for months, if not years. During this time, communication failure has frequently led to parties developing entrenched positions based on mistrust, such that satisfactory resolution becomes nearly impossible.

Parents are concerned that behavioural support plans are made but not followed

A behavioural support plan is of no use if it is not utilised.

In some instances, parents have reported that their child was being well supported at school until a staff change resulted in a failure to follow a tried and tested support plan.

In other cases, parents have said that a suitable plan was developed for their child, but then never implemented.

When plans are not followed, over-reliance on 'last resort' measures occurs

A successful behavioural support plan will include a range of strategies to manage a child's behaviour, with the aim of keeping the child engaged and included in the school environment whilst ensuring the safety and wellbeing of the child and his or her fellow students and teacher.

Parents and carers commonly report that the only part of their child's behaviour support plan that is consistently implemented is the 'last resort' strategy. In most cases, this is suspension, although in some cases it is police intervention.

Parents of students who have been suspended for behavioural reasons are frequently concerned that suspension is used as the sole behaviour management tool, and question its effectiveness. Although Departmental policy states that the period of suspension is meant to be used as a time in which to address the issues leading to the suspension, some parents feel that nothing is done and the same problems start again immediately upon the child's return to school.

Children with an intellectual disability have difficulty learning new skills and information, as well as difficulty retaining what they have learnt without consistent reinforcement. They are at particular risk of becoming disengaged from their schooling during periods of suspension.

IDRS recommends that the use of suspension as a behavioural management strategy for children with an intellectual disability be reviewed by the Department. If it is considered essential, for safety reasons, that the child be temporarily separated from other students, then detailed plans for the continuation of the child's learning must be devised and effectively implemented. At the same time, the behaviour support strategies in place for the child must be reviewed with a view to preventing a similar situation from arising again.

One parent reported that, following a change of staff at his teenage son's school, an effective behavioural support plan had been all but abandoned. Strategies that had previously worked well in calming and distracting his son were no longer implemented and instead the police were called as a first response.

The use of the police to manage a student's behaviour is not only a waste of police resources, but it also serves to alienate the student (and his fellows) from the school

whilst instilling in him a dislike and distrust of all authority that will work to the detriment of both him and the wider community in the future.

IDRS recommends that the practice of summoning the police to deal with a student's behaviour should occur as an absolute last resort, when other behaviour support strategies have been tried on that occasion and there is an imminent and real risk of injury. It should be seen as an admission that existing behavioural support strategies are insufficient and should trigger a review of the student's behavioural management plan and its implementation.

Some schools will not acknowledge the role of a disability advocate

Some parents have sought the assistance of a disability advocacy service to help them resolve issues at their child's school and then reported that the school principal refused to communicate with the advocate or allow them to attend meetings, despite written requests from the parent.

Failure to allow an advocate to assist a parent or carer will invariably exacerbate communication difficulties. The parent or carer has engaged the advocate because they felt that they need support to communicate with the school.

IDRS considers that schools should acknowledge that parents and carers are entitled to support in their dealings with schools. An advocate will usually have considerable knowledge of the needs of children with disability and the supports available to them, and should be welcomed by the school as providing valuable assistance. Privacy issues are important, but should not be used as a reason to refuse to allow an advocate or other support person access to information when a parent or carer has authorised such access in writing.

There is no swift and effective way to resolve issues

When relations between parents and schools break down, there is no fast, effective dispute resolution procedure available. A parent might make a disability discrimination complaint, or refer the matter to the NSW Ombudsman, but neither of these avenues provide a swift resolution.

Departmental disability liaison officers could help resolve issues faster

These avenues of complaint should remain open to parents and carers, however, the introduction of dedicated disability liaison officers within the Department could act as a way of resolving issues before relationships become damaged.

Liaison officers should have specific knowledge and understanding of the challenges that students with autism and intellectual disability face at school.

A liaison officer with a comprehensive understanding of all parties' rights and responsibilities, as well as a good knowledge of the supports available, could mediate issues and thus enhance communication between principals and parents.

At times, it seems that school principals, especially those whose school does not have a dedicated disability support unit, are unaware of the full range of supports and strategies available for students with a disability. A liaison officer would be able to assist a principal to get appropriate support for a student promptly, so that issues can be resolved before they cause significant disruption to a child's education.

Summary of recommendations

- Schools acknowledge that parents and carers may wish to be assisted by an advocate or other support worker, and respect this choice by allowing an advocate to attend meetings and receive information when authorised by the parent or carer.
- Where schools have received additional funding to support a child with a disability, they should provide information to the parent or carer of that child regarding the allocation of such funding, if requested.
- The use of suspension as a behavioural management strategy for children with an intellectual disability should be reviewed by the Department.
- When it is essential for safety reasons that a child be temporarily separated from other students, then detailed plans for the continuation of the child's learning must be devised and effectively implemented. At the same time, the behaviour support strategies in place for the child must be reviewed with a view to preventing a similar situation from arising again.
- The use of the police to manage a student's behaviour at school must only occur as an absolute last resort, when other behaviour support strategies have been tried on that occasion and there is an imminent and real risk of injury.
- The use of the police to manage a student's behaviour at school must be seen as an admission that existing behavioural support strategies are insufficient and must trigger an immediate review of the student's behavioural support plan and its implementation.
- The Department should appoint disability liaison officers who can mediate issues between schools and parents or carers early on, before relationships deteriorate and the child's schooling is disrupted. Liaison officers should have comprehensive knowledge of the services and supports available to the student and the school, as well as a good understanding of the needs of students with intellectual disability and autism.

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