

**Submission
No 14**

**INQUIRY INTO CHILDREN AND YOUNG PEOPLE WITH
DISABILITY IN NEW SOUTH WALES EDUCATIONAL
SETTINGS**

Organisation: Disability Council of NSW

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Inquiry: Children and young people with disability in New South Wales educational settings

Sent via email: portfoliocommittee3@parliament.nsw.gov.au

Dear Portfolio Committee

Thank you for the opportunity to provide input into this inquiry.

The Disability Council NSW (the 'Council') is a statutory body that provides independent advice to the Minister for Disability Inclusion on matters that affect people with disability in NSW and their families and carers.

Many of the Council members have personal experience with NSW educational settings as students with disability; this submission is drawn from the personal experiences of Council members and those with whom we consult, as well as from the research of experts in this sector. The Council's response to the enquiry's terms of reference questions are below.

The experiences of children and young people within educational settings and measures to better support students with disability

Bullying, discrimination, exclusion, and systemic ableism continue to be unfortunate features of education systems. CYDA conducted three surveys of families of students with disability and the students themselves in 2022 and 2023 and reported the following findings nationally¹.

Early childhood settings

- 29% of families reported exclusion from excursions, events, or activities
- 28% reported bullying from other children or staff
- One in five reported that their child had been refused enrolment
- Nearly a quarter said their child had been limited in the number of hours they were allowed to attend.

School education settings

- Only half (54%) of students reported feeling welcome and included

¹ *Disappointment and discrimination: CYDA's surveys of the learning experiences of children and young people with disability in 2022 and 2023*; <https://cyda.org.au/disappointment-and-discrimination-cydas-surveys-of-the-learning-experiences-of-children-and-young-people-with-disability-in-2022-and-2023/>

- 70% of students reported being excluded from events or activities at school
- 65% of students reported experiencing bullying, and 13% preferred not to answer
- Only 27% reported feeling supported to learn at school
- Only 35% of families felt teachers and support staff have adequate training and knowledge to support the student.

The barriers to safe, quality and inclusive education for children with disability in schools, early childhood education services and other educational settings

Given the unacceptable rates of bullying, exclusion and ableism in education settings, the Council calls on the Department to:

- urgently implement separate disability-specific units into its anti-bullying units for all students
- urgently update current units which refer to other diversity groups but not people with disability, to incorporate disability
- implement anti-ableism and unconscious bias training for all education personnel.

The specific needs of children and young people with disability in regional, rural and remote schools, early childhood education services and other educational settings

The impact on children and young people with disability and their families associated with inadequate levels of support

Amongst other issues (such as lifelong impacts on employment), the Council is concerned that a lack of appropriate support is causing parents to choose to home-school their child. The number of children in homeschooling has increased substantially each year since 2018².

Over a quarter of parents who responded stated that the reason they chose to home-school was due to their child having disability³. Disability itself is not a reason to remove a child from school: it is, the Council believes, the absence of appropriate support and the prevalence of bullying and discrimination that drive parents to make this choice. Every child has the right to attend school.

While the Council supports the right of parents to choose homeschooling, this choice should not be essentially forced upon them by a lack of appropriate support for a student's disability in schools.

Despite the Department of Education stating that in 2021, in response to concerns about the number of children with disability in homeschooling, that it "continues to work with parents/carers and disability and education experts to personalise support so that every student is engaged and learning to their fullest capability", disability was not even mentioned in the Department's [2018-2023 Strategic Plan](#).

The Council asks that:

- the Department publishes the results of the work it committed to do in 2021 to personalise support
- NESA includes the reasons parents give for choosing to home-school in its annual home-school data reporting.

² NESA, *Home Schooling Data Reports relating to 2022 July 2023*;

<https://educationstandards.nsw.edu.au/wps/wcm/connect/7281cfd6-b3e4-4346-ae2c-33e63e8e6106/home-schooling-data-reports-relating-to-2022.pdf?MOD=AJPERES&CVID=>

³ *Budget Estimates 2021-2022 Supplementary Questions Portfolio Committee No. 3 – Education*;

<https://www.parliament.nsw.gov.au/lcdocs/other/16415/Answers%20to%20supp%20questions%20-%20Hon.%20Sarah%20Mitchell%20OMP,%20Education%20-%20Received%2030%20Nov%202021.pdf>

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The benefits for all children and young people if students with disability are provided with adequate levels of support

The social, economic and personal benefits of improving outcomes for students with disability at school and in further education and employment

Students with disability cannot successfully complete high school if the education system does not meet their needs.

However, successful completion of secondary school leads to a range of benefits for both people with disability and the general community, by significantly impacting social problems such as unemployment and crime.

People with disability are much less likely than others to complete their schooling, with 21% of people aged 15–64 who acquired disability before age 15 leaving school before age 16 (compared to 8.9% of people without disability), and 34% of people aged 20 and over with disability completing Year 12 (66% without disability)⁴.

Were students with disability to be given the tools to successfully complete secondary school at the same rate as their non-disabled peers, significant social benefits could be achieved:

- Working-aged people with disability have a much lower employment rate (48%) than those without disability (80%)⁵. A 2016 Australian study identified that students with disability in Australia have low levels of educational access and attainment which in turn produce “long-lasting and severe problems for them, their families, and the entire Australian society”⁶.
- However, education can significantly lower this, with one study finding that 20% of the disability employment gap in the 25-34 age group can be attributed to the gap in education between individuals with and without disability⁷
- Studies have shown that completing high school has benefits in reducing crime⁸. In the current situation, people with disability are significantly over-represented in the criminal and youth justice systems - almost a quarter of young offenders were identified as people with disability; and 27% of adult offenders were identified as people with disability. Rates of

⁴ Australian Institute of Health and Welfare, *People with Disability in Australia*, July 2022 based on Australian Bureau of Statistics’ 2018 Survey of Disability, Ageing and Carers; <https://www.aihw.gov.au/reports/disability/people-with-disability-in-australia/contents/education-and-skills/educational-attainment>

⁵ Australian Institute of Health and Welfare, *People with Disability in Australia*, July 2022 based on Australian Bureau of Statistics’ 2018 Survey of Disability, Ageing and Carers; <https://www.aihw.gov.au/reports/disability/people-with-disability-in-australia/contents/employment/employment-rate-and-type>

⁶ Senate Education and Employment References Committee, 2016; https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/students_with_disability/~media/Committees/eet_ctte/students_with_disability/report.pdf

⁷ M. Albinowski et al, *The Employment Effects of the Disability Education Gap in Europe*, February 2023, <https://deliverypdf.ssrn.com/delivery.php?ID=716097073084077004115117067106120004010021055002019085109111022051022081033105005004117087008038078023093070104030106096086064088111115086103077099099072068116116104003076019124070&EXT=pdf&INDEX=TRUE>

⁸ For an overview, see Machin et al, *The Crime Reducing Effect of Education*, Institution of Labor Economics (IZA) Discussion Paper 5000, June 2010; <https://docs.iza.org/dp5000.pdf>

disability are particularly high amongst Aboriginal offenders.⁹ In juvenile detention centres, both intellectual and psychosocial disability are common, as is traumatic brain injury¹⁰.

School to work programs and activities

School to work programs are correlated with improved employment outcomes¹¹. These programs – both school-based and work-based – should be scaled up so that more students with disability can access them. Students with disability told us:

- their Year 10 work experience was invaluable because it helped them understand that they can work as a disabled person
- that they would like multiple opportunities to have work experience in senior secondary school
- they would like in-school peer mentors with a similar disability.

Career counsellors should have knowledge and experience with disability, inherent requirements and reasonable adjustments to help students understand what careers they may be best suited to, what adjustments they should request, and how to obtain adjustments when needed.

The experiences of teachers, early childhood educators, learning support staff and others with a role in educating children with disability and measures to adequately resource and empower those educators

The resourcing available to educational settings and educators, including infrastructure, to support the needs of children and young people with disability in New South Wales

The measures necessary to ensure the learning environment is safe and inclusive for all students, teachers and school support staff

Representation matters

Students with disability need to have adult role models with disability at every stage of their education. The Council is aware of the 2023 election commitment to “explore pathways for people with disability to become teachers and school support staff”. We note that in 2022, only 2.7% of the teaching service had disability, and that this was the same percentage as in 2021¹². The figure is significantly lower than the 5.6% target of this and previous governments.

The Council encourages the Department of Education to offer scholarships and other incentives, and work with universities and TAFEs, to significantly increase the number of staff with disability, particularly as teachers. The roll-out of Auslan as a subject represents one but not the only opportunity to increase the number of teachers with disability.

Access to the curriculum for deaf students

⁹ C. Ringland et al, *People with disability and offending in NSW: Results from the National Disability Data Asset pilot*; <https://www.bocsar.nsw.gov.au/Publications/BB/BB164-Report-People-with-disability-and-offending-in-NSW.pdf>

¹⁰ Justice Health & Forensic Mental Health Network and Juvenile Justice NSW, *2015 Young People in Custody Health Survey*; https://www.nsw.gov.au/sites/default/files/2022-05/2015_YPiCHS_Full_report.pdf

¹¹ C. Shandra and D. Hogan, *School-to-work program participation and the post-high school employment of young adults with disabilities*, *J Vocat Rehabil.* 2008; 29(2): 117–130; <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4192723/>

¹² *Public Service Commission Workforce Profile Report 2022*; <https://www.psc.nsw.gov.au/reports-and-data/workforce-profile/workforce-profile-reports/workforce-profile-report-2022/diversity#people-with-disability>

The Council is concerned that people providing interpreting services for deaf students in schools or early education are not required to be qualified interpreters¹³, which has a detrimental influence on the developing deaf child. Council has raised this matter with the Department of Education but is concerned that immediate action must be taken to ensure students can fully access the curriculum.

The Council also notes that deaf students have told us that they would benefit from regular 'deaf camps' as opportunities to interact with their peers. This is particularly required for the majority of deaf students who are educated in mainstream settings.

Trauma-informed teaching

People with disability are more than twice as likely to be victims of violent and domestic violence-related crime¹⁴.

Students with disability are more likely to experience trauma.

- One study found that about one-third of young children and teenagers with disability faced emotional and physical abuse, 20% experience neglect and approximately 10% had been sexually abused¹⁵.
- In 2021, a NSW study found that 1 in 3 children with a placement in out-of-home-care had disability¹⁶.
- Research based on WA and SA data found that children with disability are twice as likely to have a mother hospitalised due to a DFV assault (8% compared to 4%) and that, according to police and hospital data, children with disability made up approximately 30 per cent of children who had experienced DFV¹⁷.

All education personnel engaging with students with disability, including all teachers in early childhood, primary and secondary settings, must be trained in trauma-informed practice.

University partnerships

- Academics tell us there is an opportunity to assist the Department in understanding students with disability, but the NSW State Education Research Applications Process (SERAP) is a gatekeeper to ethics approval related to school research.
- Often, SERAP denies academics the opportunity to conduct research with students with disability or their teachers.

¹³ Qualified interpreters are those with at least Provisional Certification, and preferably full Certification, by NAATI; <https://www.naati.com.au/certification/>

¹⁴ C. Ringland et al, *The victimisation of people with disability in NSW: Results from the National Disability Data Asset pilot*, September 2022; https://www.bocsar.nsw.gov.au/Pages/bocsar_publication/Pub_Summary/CJB/CJB252-PageSummary-NDDA-pilot.aspx

¹⁵ Z. Fang et al, *Global estimates of violence against children with disabilities: an updated systematic review and meta-analysis*, *The Lancet Child & Adolescent Health*, March 2022; [https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642\(22\)00033-5/fulltext](https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642(22)00033-5/fulltext)

¹⁶ National Disability Data Asset, *Early Childhood Supports in NSW: Summary of NDDA pilot findings*, December 2021; <https://www.ndda.gov.au/wp-content/uploads/2022/09/08-Summary-of-NDDA-pilot-findings-Early-childhood.pdf>

¹⁷ O. Octoman et al, ANROWS, *The nature and extent of domestic and family violence exposure for children and young people with disability*, 2022; <https://www.anrows.org.au/publication/the-nature-and-extent-of-domestic-and-family-violence-exposure-for-children-and-young-people-with-disability/>

Disability-specific expertise is required in schools; the Council calls on SERAP to recognise the disability movement's motto of 'nothing about us without us' and increase access to academics to research, to assist the Department to support these students.

The impact of policies regarding suspensions and expulsions

Suspension of students with disability is an ongoing concern.

The impact of policies regarding the use of restrictive practices

Some families tell us their children continue to experience restrictive practices, and some families believe that school personnel do not understand restrictive practices.

The effectiveness and availability of early intervention programs

Whether existing regulatory and oversight mechanisms are sufficient to protect and promote the rights of children and young people with disability, and protect those children and young people from abuse, neglect and exploitation

Whether children and young people with disability should be included under the remit of the Ageing and Disability Commissioner

Developments since the 2017 Upper House inquiry into education of students with disability or special needs in New South Wales

Measures to implement the Disability Royal Commission's recommendations in relation to inclusive education

While the Council supports the inclusion of students with disability, forcing inclusion eliminates choice and control; inclusion should be a choice.

For example:

- Some families say they prefer special schools for their children because they believe the students will be safer than in a mainstream school.
- Families with children who are deaf say they would like the option for their child to go to a school for the deaf, which are Auslan-rich environments, and which frequently have deaf leadership, teachers and other role models.

Education of children and young people in custody

The Council draws this inquiry's attention to the DRC's recommendation that "corrective service and youth justice agencies should provide people with disability with the disability supports they require to place them in the same position, so far as feasible, as other people in custody"¹⁸. For children and young people (and indeed for adults, this requires appropriate and accessible education. The Council urges this inquiry to ensure that young offenders in custody who have disability are provided with age-appropriate education, and any required adjustments.

Other related matters

HSC exam reasonable adjustments

The Council notes that there are significant barriers for students with disability in equitably sitting the HSC:

¹⁸ DRC Final Report, Volume 8: Criminal Justice and People with Disability, recommendation 8.1;

<https://disability.royalcommission.gov.au/system/files/2023-09/Final%20Report%20-%20Volume%208%2C%20Criminal%20Justice%20and%20people%20with%20disability.pdf>

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- Access to reasonable adjustments should not disadvantage students based on socioeconomic background. A 2021 report¹⁹ found that “High-fee private schools are claiming the most HSC disability provisions despite the independent sector having the fewest students with special needs.”
- The Council is aware that some parents struggle to have reasonable adjustments implemented for their child with disability sitting the HSC.
- Some families cannot afford to pay for the assessments required to prove to NESAs that the student has a disability requiring a reasonable adjustment.
- Some families tell us that it is re-traumatising to be required to advocate for their child for the reasonable adjustment and then for the request to be denied.
- The current HSC reasonable adjustment process does not allow for students with disability to demonstrate their capacity.

Choices for Year 12 students

- Some parents tell us that the pros and cons of choosing Life Skills for their child are confusing and need more help during the decision-making process.
- Some parents tell us that the requirements for a Record of School Achievement or HSC for their child with disability is confusing.

Education and the NDIS

- For children with disability, it is essential that the Education system works more closely with the NDIA to ensure appropriate referral so that support can be provided as early as possible. To achieve the best outcomes for children with disability, a holistic approach should be adopted whereby a child is supported by a team of people including allied health staff, the early childhood worker or teacher and the NDIS planner. Intervention would be more immediate and efficient.
- The Council welcomes the provision of foundational supports to NDIS participants and non-participants and calls on the Department to work with stakeholders to facilitate supports occurring in schools.

Minimum standards for the HSC

The Council has met with NESAs to discuss its ongoing concerns that students with disability in support classes who choose to study mainstream subjects can be disadvantaged in their HSC.

Students with disability are exempt from meeting minimum standards to obtain their HSC if they undertake Life Skills subjects, but this does not apply to those studying mainstream subjects. The unintended consequence may be that students with disability may feel compelled to undertake Life Skills subjects to obtain their HSC.

Council understands that where a student has a diagnosed disability, has been in a support class, and has had support measures put into place, they could opt out of meeting the minimum standards.

Council calls on NESAs to:

- publish the results of its 2022 review on this matter
- calibrate its policy based on that consultation
- update its website to make it easier for parents and students to understand their options

¹⁹ As reported in the Sydney Morning Herald, November 23, 2021; <https://www.smh.com.au/national/nsw/a-complex-problem-richest-schools-claim-most-hsc-disability-provisions-20211122-p59ayg.html>

- publicise the availability of NESA’s online decision-making tools, particularly to: organisations for students with disability and their families; specialised teachers; and NDIS service providers.

Accountability to the community

Statistical information

The Department publishes an annual statistical bulletin that includes information about students with disability. The Council recommends that this bulletin be expanded to include:

- the percentage of children with disability in the system (by setting and disability type) over time
- the tracking of educational outcomes (NAPLAN results, successful completion of HSC, and other attainments such as participation in excursions, school sports, achieving leadership positions such as captain/prefect, etc).

Management of complaints and feedback

While the Council appreciates the work that has gone into making the Department’s complaints process accessible to parents with disability (e.g., Easy Read, provision of the National Relay Service), we are concerned that information about the types of complaints made regarding students with disability does not appear to be available.

The Council calls on the Department to annually publish de-identified data on:

- the number of complaints made annually by parents and carers regarding students with disability
- the subjects of these complaints (e.g., accessibility, bullying, exclusion, discrimination)
- the percentage of complaints which were satisfactorily resolved.

Independent evaluation of potential discrimination

Given the high rates of discrimination reported by CYDA²⁰, and noting that these instances, if accurate, are counter to Department policy and/or the Anti Discrimination Act 1977, the Council calls for an independent evaluation to be conducted by the Audit Office, into:

- refusal to enrol
- exclusion from school, including being told that a student cannot attend full-time
- de facto exclusion from school, including being unable to attend full-time due to a lack of support provision
- exclusion from the curriculum, including through a lack of qualified interpreters in the case of deaf students
- the use of restrictive practices.

Disability inclusion action planning

Council notes that the Department’s new Disability Inclusion Action Plan (DIAP) is due 1 December 2024 and strongly recommends that it includes measurable, budgeted and dated targets for the requests outlined above:

- reducing bullying of students with disability

²⁰ ²⁰ *Disappointment and discrimination: CYDA’s surveys of the learning experiences of children and young people with disability in 2022 and 2023*; <https://cyda.org.au/disappointment-and-discrimination-cydas-surveys-of-the-learning-experiences-of-children-and-young-people-with-disability-in-2022-and-2023/>

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- increasing teachers and other staff with disability
- reduce homeschooling of children with disability and publish the results of this work
- implement a program to ensure all individuals providing interpreting services in schools (for parents and students, including deaf students) are NAATI certified
- outline the nexus between the NDIS and the Department, particularly regarding the new foundational supports
- enhance the annual statistical bulletin
- publish disability complaints data.

While NESAs are not required under the Disability Inclusion Act 2014, the Council also calls on NESAs to consider undertaking a DIAP alongside public authorities, which have new DIAPs due 1 December 2024. Both the Council and the Department of Communities and Justice offer a range of resources that NESAs can use to undertake a DIAP.

Thank you once again for the opportunity to provide feedback.

Yours faithfully

Jane Spring
Disability Council NSW Chair

Jill Duncan
Disability Council NSW Deputy Chair