

Submission
No 38

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

Organisation: Federation of Parents and Citizens Associations of NSW
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**Inquiry into Children and young people with disability in
New South Wales educational settings**

February 2024

1. Executive Summary

The main points of the P&C Federation are:

- **Term of Reference A:**
 - The P&C Federation recommends to the inquiry that:
 - The Department promote the services available for students with a disability, consistent with Recommendations 7.3 and 7.6 of the Disability Royal Commission Report, including a page on every school website.
- **Term of Reference B**
 - The P&C Federation recommends to the inquiry that:
 - Funding must be both increased and better targeted to increasing the availability of support for children with a disability.
 - That Recommendation 7.8 of the Disability Royal Commission Report concerning improved initial teacher education and access to professionals skilled in inclusive education be implemented.
 - Retain schools for specific purposes (SSPs) as crucial (and voluntary) options for students with more complex needs to be able to meet their full educational potential, with sufficient resources to achieve this goal.
- **Term of Reference I:**
 - The P&C Federation recommends that:
 - The Department of Education explore the opportunity for students with a fulltime National Disability Insurance Scheme (NDIS) carer be allowed to keep that carer during the school day when support is often most needed, as well as other ways to better integrate NDIS supports with education supports.
- **Term of Reference P:**
 - The P&C Federation recommends to the inquiry that:
 - Recommendations 7.1 to 7.13 be implemented and applied to all school sectors.
 - Recommendation 7.15 (“An alternative approach”) be adopted in New South Wales to preserve student and parent choice concerning the most appropriate setting for education.

2. Introduction

The Federation of Parents and Citizens Associations of New South Wales (the “P&C Federation”) thanks the Committee for this opportunity to contribute feedback to its Inquiry on children and young people with a disability in New South Wales educational settings. The P&C Federation believes that education is a universal human right irrespective of culture, gender, ability, location, or socio-economic status and that it is the responsibility of government to ensure that education is available to all children. In order to be inclusive of all children, including those with a disability, school systems must provide the necessary infrastructure, resources and supports to ensure positive and equitable outcomes. In the current environment of underfunding of government schools, the provision of full funding for government schools is an absolute prerequisite for achieving real and lasting reform in the area of inclusive education.

The P&C Federation is the representative voice for parents and students enrolled in public schools in New South Wales. We have more than 1800 member associations, 5000 association executive members, and represent the 791,000 public school students and their parents. This makes the P&C Federation one of the largest volunteer-based organisations within Australia. Our experience of the issues within education is broad and carries with it the voice of a substantial body of parents and carers.

3. Statement of Issues

There are a variety of issues that create barriers to an inclusive education for students with a disability. These include:

1. Insufficient funding of government schools, by a factor of almost 12% of the calculated need for their operation. This underfunding places principals in an untenable position when trying to provide inclusive education opportunities for all students in an environment of unmet funding needs;
2. These issues, among many others, inhibit the ability of our government school system to provide an inclusive education for students with a disability.

4. Scope of the Submission

The Committee's Terms of Reference inquire broadly into areas that relate to the provision of education to students with a disability and potential measures to implement the Disability Royal Commission's recommendations for inclusive education. We note that there have been a large number of detailed and well-resourced papers on the topic of inclusive education for students with a disability, including the Disability Royal Commission's final report, and we do not attempt to restate those findings here. Rather, the P&C Federation seeks to add its perspective about the minimum supports necessary to provide these students with a high-quality inclusive education.

5. Analysis and Discussion

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

The New South Wales Department of Education's Disability Strategy 2019 was intended to address the experiences of young people with a disability. This strategy is currently being reviewed by the NSW Auditor General. In the P&C Federation's consultation, families of children with a disability are overwhelmingly unaware of this strategy. Anecdotally, it appears common that parents are generally uncertain of what services exist for students with a disability. Recommendations 7.3 and 7.6 of the Disability Royal Commission Report make specific recommendations for the creation of clear and accessible guidelines about the rights and supports available for students with disability, and the Federation supports these recommendations. Even simple changes, such as publicising the services available for these students on each school website as a matter of course strikes us as a feasible and prudent measure.

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

The provision of inclusive education for students with a disability requires specialist training, personnel, and resources. It does not happen on its own. Teachers must receive initial training and ongoing professional learning that provides the skills necessary to deliver an inclusive education. Schools must have access to specialised resources and professionals to address specific needs. In some cases, physical modification of a school may be necessary. To make these resources readily available, schools and the school system must be fully and adequately funded (not merely provided with individual student loadings). Funding must be both increased and better targeted to increasing the availability of support for children with a disability.

It is well-known that our State's public schools are underfunded. Some reviews place the scale of underfunding for a single year in New South Wales at \$1.9 billion.¹ The failure to fully fund public schools prevents schools from offering the full range of supports that students with a disability may require, including:

- Additional teachers to support smaller classes and greater differentiated instruction.
- Additional specialist support staff including counsellors, psychologists and behaviour support professionals.
- Training and mentorship to provide teachers and learning support staff with new evidence-based skills to support students with a disability.
- Additional infrastructure to allow students with a disability to fully participate in the life of their school, and
- Early recognition and intervention programs to guide support for individual students with particular needs.

Even where targeted individual needs for students with a disability are addressed through funding loadings, the fact that other school priorities are underfunded negatively impacts a school's ability to fully support its students with the most complex needs.

But perhaps more significantly, many students with a disability require levels of adjustment that are not subject to disability loading and are instead addressed through differentiated teaching strategies. It is in this area that the routine and systematic underfunding of public schools is the most harmful.

Indeed, the recent Interim Report by the Commonwealth Government on the issue of disruption in Australian classroom included the alarming 2021 statistic that,

“89% of public school principals said they had had to divert funds from other parts of school budgets in the most recent year because they do not have the resources to provide adjustments for students with a disability.”²

The same underlying survey from 2023 similarly reported that 83% of principals felt that they did not have sufficient resources to meet the needs of students with disability, almost 90% say that they are taking money from other areas of the school budget to compensate for this shortfall, and some report relying on support from a P&C to address the gap.³

This persistent underfunding of schools creates unnecessary barriers to providing an inclusive educational environment for all students, including those students with a disability.

It is important to note here that schools for specific purposes (SSPs) can be crucial places for students with more complex needs to receive support. Some families who have attended SSPs have noted their children were better able to thrive and meet their educational potential than they were in more mainstream schools. It is important that SSPs continue to be an option for parents, and that any

¹ Australian Educational Union, <https://assets.nationbuilder.com/aeu/pages/3265/attachments/original/1690765627/ForEveryChild.pdf?1690765627>, p. 7

² Interim Report, The issue of increasing disruption in Australian school classrooms, The Senate, Education and Employment References Committee, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/DASC/Interim_Report, para. 3.23 (citing to AEU 2021 'State of Our Schools' survey).

³ See <https://assets.nationbuilder.com/aeu/pages/3265/attachments/original/1690765627/ForEveryChild.pdf?1690765627>, pp. 20-21.

strategy to address disability in education acknowledge the important role of SSPs and provide the resourcing necessary for them to fulfill their role.

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

No student must be disadvantaged in education due to their geographic location. The costs of services are proportionally higher with geographic remoteness, particularly when such services are in-person, and this should be mitigated via remote technology and, where remote technology is not feasible (such as in the provision of SLSO support for students with autism), the Department must have funding to ensure students in these areas are not disadvantaged. Crucially, the availability of services should be widely communicated to parents.

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

- a. No recommendation.

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

The P&C Federation supports inclusive education for all students in all school sectors, including students with a disability. In particular, the Federation recognises the substantial positive benefits for both students with and without a disability that an inclusive educational environment can provide. Just as a student with a disability may benefit from learning alongside their non-disabled peers, non-disabled students acquire valuable benefits and perspectives from learning alongside their disabled peers.

We agree with the view of the Commissioners who conducted the Disability Royal Commission review that school “is perhaps the most important opportunity to shape attitudes and social norms relevant to people with disability” and to foster respect for the “differences, diversity and inherent dignity of people with disability.”⁴ We agree as well that, “Education is the starting point for an inclusive society.”⁵

Adequate supports, in the form of smaller classes, well-trained teachers, specialists, learning support officers, and well-designed classroom spaces benefit all students, not just students with a disability. Providing these supports allows students with a disability to access learning in a way that best meets their individual needs, while allowing teachers to meet the broad needs of all students through differentiated teaching strategies. The result is that the needs of all students are met, and schools can provide a high-quality education to all students regardless of ability.

Conversely, where adequate supports are not available, or where funding to provide supports is lacking, no student wins. Classrooms experience disorder, differentiated teaching strategies are ineffective, teacher morale suffers, and students with a disability risk being viewed as an impediment to learning. This is unfair to students. Full funding and adequate supports are a necessary prerequisite to allowing all students to access a high quality and inclusive public education.

⁴ Disability Royal Commission Final Report, vol. 7A, p. 88.

⁵ Id., p. 79.

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

The P&C Federation believes that the purpose of education is to prepare students to become productive and contributing members of society, including providing them skills for employment, for social life and to attain further education. It is almost axiomatic to say that the more people with these skills, the better society will be. This alone behoves the government to support students with a disability.

H. 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, and

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

Full SRS (School Resource Standard) funding for government schools, adequate disability loadings, and a robust system to fund improvements to infrastructure are critical to support the needs of children and young people with disability in New South Wales. In New South Wales today, this kind of funding and resourcing is simply not always available. This leads to unequal outcomes and an education that is not inclusive.

Some examples help to illustrate these points:

- An underfunded school has cracked and uneven pavements, limiting the ability of a student with mobility issues to move safely around the outdoor play areas. Disability loading does not address repairs at the school, and school RAM funding is already being used to hire an extra SLSO or reduce class sizes. As a result, the child is unable to participate in play with her peers.
- A student with a behaviour or impulse control issue is provided with an SLSO for part of the school day. The student and the SLSO must be accompanied by a teacher each time the student needs to leave the classroom (whether for a bathroom break or to help regulate behaviour), but there is no provision to cover the teacher time that this requires, and the school is already understaffed. As a result, either the student with a disability is unable to access the bathroom or a break, or the classroom must be collapsed or left unattended while the teacher is absent.
- A student with complex behavioural needs is funded for a support teacher but only for part of the school day. When the support teacher is unavailable, the classroom teacher is sometimes hit or scratched, and other children in the class are taught to quickly exit the classroom in response to escalating behaviour. The school resorts to suspension in an attempt to mitigate the impact of the student's dysregulated behaviour. As a result, the student with a disability is deprived of supports necessary to enhance learning, other students are deprived of a well-regulated classroom environment, and the teacher is exposed to risks of physical harm.

Each of these examples demonstrates the way a failure to fully resource schools to meet their basic needs as well as the needs of students with a disability deprive those students of an inclusive education. They likewise demonstrate the impact to other students and teachers.

The P&C Federation believes that without full and adequate funding, a truly inclusive education cannot be provided for students with a disability.

The P&C Federation also recommends that the Department of Education explore ways to better integrate external supports provided by the National Disability Insurance Scheme (NDIS),

particularly the option for an NDIS carer to be allowed to remain engaged during the school day when support is often most needed.

- a. This could potentially alleviate work on teachers and teachers' aides whilst giving students access to a carer who they have a relationship with. It is important that the government study the option of allowing NDIS carers to directly assist in education settings, with a goal of integrating NDIS and educational supports.

J. The impact of policies regarding suspensions and expulsions; and

K. the impact of policies regarding the use of restrictive practices.

- a. The P&C Federation supports Recommendation 7.2 of the Disability Royal Commission regarding the use of exclusionary discipline for students with a disability. That recommendation appropriately balances two important needs:
 - i. Ensuring these policies do not adversely affect students whose behavioural issues stemmed from disability, special needs, or trauma, and
 - ii. The right of all children to learn in a safe environment free from disruption, and for schools to be able to manage non-compliant students.

In creating the robust review process envisioned by the Recommendation, the P&C Federation recommends that appeals be handled outside of the direct line of school/principal reporting (see Recommendation 7.10 "at arms length"), and that reviews are conducted by an individual or body with expertise in the provision of inclusive education and the ability to direct funding and other resources to address any underlying student need that has contributed to the need for exclusionary discipline.

L. The effectiveness and availability of early intervention programs.

There are some metrics suggesting early intervention programs need investigation and amending. For example, the Department's latest figures suggest its targets for the proportion of NSW public school students continuing to Year 12 is under target. The figures suggest the number of students in early intervention has remained relatively constant.⁶

While there are currently limited early intervention programs provided through the Department, the provision of specialist support in schools could substantially improve early recognition and intervention for students with disability.

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

The developments have been mixed. Recommendations related to funding (such as recommendation 4) remain unfulfilled. The measures around monitoring and recording information related to students with a disability are often incomplete.

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

The P&C Federation supports the recommendations of the Disability Royal Commission's (DRC) Final Report numbers 7.1 through 7.13 as well-considered and likely to produce improvements in inclusive education for students with a disability.

⁶ E.g. NSW Department of Education Annual Report 2022

In particular, the P&C Federation believes that all students, including students with a disability, have an absolute right to receive a free and inclusive education of the highest possible quality, and that it is the responsibility of government to provide that public education option. To that end, we support the creation of legislation that guarantees that all students have an absolute right to attend a mainstream school with the appropriate funding and supports to ensure success (Recommendation 7.1).

We note, however, that Recommendation 7.1, and many of the other recommendations, are unclear as to whether and how they might apply to school sectors other than the government sector. The P&C Federation believes that each of these recommendations should apply with equal force to all school sectors to ensure that the options, protections, and opportunities available to a student with a disability are equal and inclusive regardless of the choice of school or sector.⁷ This is particularly true for recommendations that require reporting (e.g. Recommendation 7.2), data collection (Recommendation 7.9), and compliance and complaint handling (Recommendations 7.10, 7.11).

The Recommendation of the Disability Royal Commission Report 7.15

The P&C Federation has carefully considered the DRC Report's recommendations 7.14 ("Phasing out and ending special/segregated education") and 7.15 ("An alternative approach"). As noted above, the P&C Federation supports the creation of legislation that ensures that all students have an absolute right to attend a fully funded mainstream school if that is their choice. But in light of the current reality of underfunded and under-resourced schools, we believe that Recommendation 7.15 represents the more realistic approach at present.

Our support for Recommendation 7.15 is premised upon a number of factors. First, while many parents and students with a disability will elect a mainstream school, some students and their families will nevertheless prefer a specialised educational setting for purely individual reasons. Media reports surrounding the work of the Disability Royal Commission highlighted families on both sides of this debate⁸ Recommendation 7.14, while aspirational, restricts choice, while 7.15 preserves student and family choice.

Recommendation 7.14 appears premised upon ending segregation in education, and the P&C Federation fully supports this goal. But based upon the DRC's own definitions, 'segregation' does not occur where there is a measure of choice. "Segregation does not occur in spaces where people with disability choose to come together, share culture and values, seek support for their individual needs, or are encouraged and supported to engage with the broader community. These are the same choices available to people without disability."⁹ DRC Report, Vol. 7, p. 7.

Thus, while we support preserving the element of choice for families and students (at least until such time as the funding for the government school sector is robust and sufficient to guarantee all necessary supports to all students with a disability in any local public school), we note that our support for Recommendation 7.15 should be considered inseparable from the following specific goals:

⁷ For example, concerns about the existence of 'gatekeeping' practices apply with equal, or perhaps greater, force to non-government schools as they do to government schools. Indeed, the Report highlights at least one instance where a parent of a child with disability was told that her local private schools "just don't take children" like her son.⁷ The Report only "recommends that state and territory legislation should create an entitlement for students with disability to enrol **in a local government school.**" DRC Report, Vol. 7, p. 160 and Recommendation 7.1. The right to enrol should apply to all sectors.

⁸ See, for example, *Sydney Morning Herald*, "Lili thrived at special schools. The royal commission is split on a plan to phase them out," 29 Sept. 2023.

⁹ DRC Report, Vol. 7, p. 7.

- All students must have an absolute legislated right to attend a mainstream school of their choice, subject only to ‘unjustifiable hardship’ in the sense used in the *Disability Discrimination Act 1992 (Cth)* (see Recommendation 7.1);
- All schools in all sectors selected by a student with a disability must have access to robust funding and local supports sufficient to address each student’s individual needs.
- Wherever possible, all special-purpose schools and all in-school support units should be co-located or in close proximity to a mainstream school in order to facilitate participation by students in educational, sporting, recreational, and celebratory activities with their peers in mainstream programs; and
- Partnerships and regular interchange between mainstream and non-mainstream schools or units within a school should be the mandated expectation among schools in both the government and non-government school sectors.

Only when these multiple requirements operate hand-in-hand can school systems balance the need to preserve student and family choice with providing all students, including those with a disability, a wholly inclusive opportunity for education.

6. Recommendations

- A. the experiences of children and young people within educational settings and measures to better support students with disability**
 - a. The P&C Federation recommends to the inquiry that:
 - i. The Department promote the services available for students with a disability, including a page on every school website.
- B. the barriers to safe, quality and inclusive education for children with disability in schools, early childhood education services and other educational settings**
 - a. The P&C Federation recommends to the inquiry that:
 - i. Funding must be both increased and better targeted to increasing the availability of support for children with a disability.
 - ii. In situations where teachers are managing students with a disability or special needs, there must be sufficient resources to provide for their training.
 - iii. Acknowledge schools for specific purposes (SSPs) as crucial places for students with more complex needs to be able to meet their full educational potential and ensure SSPs are fully resourced to achieve this goal.
- C. the specific needs of children and young people with disability in regional, rural and remote schools, early childhood education services and other educational settings**
 - a. The P&C Federation recommends to the inquiry that:
 - i. The costs of services in non-metropolitan areas should be mitigated via remote technology. Crucially, the availability of services should be widely communicated to parents.
 - ii. Ongoing problems related to the adequacy of online services in non-metropolitan areas should be assessed and addressed as a matter of priority.
- D. the impact on children and young people with disability and their families associated with inadequate levels of support.**
 - a. No recommendation

- E. the benefits for all children and young people if students with disability are provided with adequate levels of support.**
- a. The P&C Federation recommends to the inquiry that:
 - i. Providing support and resourcing to address these students would allow more space for all students to perform to their potential.
- F. the social, economic and personal benefits of improving outcomes for students with disability at school and in further education and employment.**
- a. See body of submission.
- G. 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.**
- a. No recommendations.
- H. 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 and**
- I. the measures necessary to ensure the learning environment is safe and inclusive for all students, teachers and school support staff.**
- a. The P&C Federation recommends that the Department of Education explores the opportunity for students with a fulltime National Disability Insurance Scheme (NDIS) carer be allowed to keep that carer during the school day when support is often most needed.
- J. the impact of policies regarding suspensions and expulsions**
- K. the impact of policies regarding the use of restrictive practices**
- a. There is a evidence that these policies disproportionately and unfairly impact students with a disability.
 - b. The P&C Federation recommends to the inquiry that:
 - i. policies around restrictive practices balance two important needs:
 - ii. The right of all children to learn in a safe environment free from disruption, and for schools to be able to manage non-compliant students.
 - iii. Ensuring these policies do not adversely affect students whose behavioural issues stemmed from disability, special needs, trauma or child protection.
 - iv. Restrictive practices and suspensions are not used as punishments, but only used as a last resort to ensure the safety of staff and/or students. The government should monitor and regularly publish data around suspension and expulsion, including the extent to which students with a disability are affected.
- L. the effectiveness and availability of early intervention programs**
- a. The P&C Federation recommends to the inquiry that:
 - i. The Department should investigate the extent to which their early intervention programs are helping students reach their full potential.
- M. 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.**
- a. no recommendation
- N. whether children and young people with disability should be included under the remit of the Ageing and Disability Commissioner**
- a. no recommendation
- O. developments since the 2017 Upper House inquiry into education of students with disability or special needs in New South Wales**
- a. The P&C Federation recommends to the inquiry that:

- b. The NSW Government must arrange with the Commonwealth to ensure NSW government schools receive full SRS funding, including sufficient loadings for students with a disability.
- c. The NSW Government must also ensure data related to the educational outcomes of students with a disability is collected and reviewed systematically,
- d. The NSW Government should also publish this in a readily accessible and transparent format.

P. measures to implement the Disability Royal Commission's recommendations in relation to inclusive education.

- a. The P&C Federation recommends to the inquiry that.
- b. 7.1-7.13 is the primary focus of the Government and that should apply to all school sectors.
- c. We recommend 7.15 as the more appropriate response when compared to 7.14.

7. Conclusion

The P&C Federation thanks the Committee for their consideration of our submission. The Federation has systematically looked at each of the terms of reference and replied to the ones that are most applicable to our members, finally we have suggested that the department explore a policy position regarding NDIS carers.

Overall, the P&C Federation supports inclusive education for all students in all school sectors, including students with a disability. In particular, the Federation recognises the substantial positive benefits for both students with and without a disability that an inclusive educational environment can provide. Just as a student with a disability may benefit from learning alongside their non-disabled peers, non-disabled students acquire valuable benefits and perspectives from learning alongside their disabled peers.

8. References

- *Annual Reports.* <https://education.nsw.gov.au/about-us/strategies-and-reports/annual-reports>. Accessed 28 Feb. 2024.
- "Expert Panel's Report - Department of Education, Australian Government." *Department of Education*, <https://www.education.gov.au/review-inform-better-and-fairer-education-system/resources/expert-panels-report>. Accessed 28 Feb. 2024.
- Groch, Sherryn. "Lili Thrived at Special Schools. The Royal Commission Is Split on a Plan to Phase Them Out." *The Sydney Morning Herald*, 29 Sept. 2023, <https://www.smh.com.au/politics/federal/julius-loves-his-mainstream-school-does-australia-still-need-special-schools-20230928-p5e8cq.html>. Accessed 28 Feb. 2024.

- Longmuir, Fiona, et al. "Australian Teachers' Perceptions of Their Work in 2022." *Figshare*, https://bridges.monash.edu/articles/report/Australian_Teachers_Perceptions_of_their_Work_in_2022/21212891. Accessed 28 Feb. 2024.
- "Australian Teachers' Perceptions of Their Work in 2022." *Figshare*, https://bridges.monash.edu/articles/report/Australian_Teachers_Perceptions_of_their_Work_in_2022/21212891. Accessed 28 Feb. 2024.
- Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. *Final Report - Volume 7, Inclusive Education, Employment and Housing*. 29 Sept. 2023, <https://disability.royalcommission.gov.au/system/files/2023-09/Final%20Report%20-%20Volume%207%2C%20Inclusive%20education%2C%20employment%20and%20housing%20-%20Easy%20Read.pdf>. Accessed 28 Feb. 2024.
- *The Issue of Increasing Disruption in Australian School Classrooms*. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/DASC/Interim_Report. Accessed 28 Feb. 2024.