

**Submission  
No 53**

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

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# TAMARA SMITH MP

MEMBER FOR BALLINA



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To Chair Boyd and Members of Portfolio Committee 3,

## **Submission to the Inquiry on children and young people with disability in New South Wales educational settings**

Thank you for the opportunity to contribute towards this Committee's important inquiry into children and young people with disability in New South Wales educational settings.

I make this submission on behalf of the Ballina electorate and as the NSW Greens Spokesperson on Education and Early Learning. As a former teacher in regional areas and a 28-year-long member of the NSW Teachers Federation, I understand how important this issue is and applaud the Committee for establishing this inquiry.

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

There is no doubt that historically the enforced separation and isolation of people with disability has resulted in their dehumanisation and exposed them to abuse and neglect. Many people in my community have expressed the fact that NSW needs a significant transformation of its school systems, through legislative and policy changes, improved procedures and support services, and changes to culture, capability and in-school practice. This means a commitment by the State to adequate funding that guarantees a meaningful level of support for students with disabilities and teachers.

People in my community want a shift in cultures of segregated education in all schools and educational facilities, and the implementation of system-wide inclusive education. This must be supported by a comprehensive rights-based transition plan developed in consultation with the community. This will ensure that students with disabilities needs and rights will be met and protected in all stages of the transition to an inclusive education system that benefits all students.

Ensuring that our schools and educational settings provide quality education to all students that meets their learning needs is a core government responsibility. To ensure equity and drive attitudinal change to disability, governments have the responsibility to provide the necessary funding in all areas of education, so that students living with disabilities are given every opportunity to succeed.

It is incumbent upon the government to provide schools with all the necessary funding and resources needed to ensure disabled students are educated in an inclusive setting alongside their peers in accordance with their rights under Article 24, General Comment No. 4 of the Convention on the Rights of Persons with Disabilities.

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This includes providing all teachers and administrative staff with access to ongoing training and professional development to be able to implement inclusive education practices in all schools and colleges. The implementation and provision of training pathways should be developed in close consultation with people living with disabilities, academic experts, inclusive education peak bodies, and teaching unions.

**Recommendation 1: Transition to a fully inclusive education system by 2030. This transition must be made in consultation with people living with disabilities, families, disability representative organisations, education experts, teachers, and their unions.**

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

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Many students and teachers have expressed to me as the Member for Ballina that one of the biggest barriers to safe, quality and inclusive education for children with disabilities in education settings is a lack of resourcing, particularly in public schools. Without addressing the pay and conditions of the professionals who support children and young people with disabilities, it will be impossible to transition away from segregated schooling by 2030.

The New South Wales Government must prioritise the full resourcing of public schools, 98% of which are shamefully receiving funding below the School Resourcing Standard.

**Recommendation 2: The NSW government should increase the funding of public schools to ensure that 100% of New South Wales public schools meet the School Resourcing Standard (SRS). Experts estimate this funding needs to be \$1.9 billion, accounting for capital depreciation.**

**Recommendation 3: The NSW government should appeal to the Commonwealth government to reform the School Resourcing Standard's funding model, including by:**

- **abolishing the so-called "20% cap" on the Commonwealth's share of total public school funding**
- **replace the cap with a 25% minimum contribution; and**
- **amend the Australian Education Act to require the Commonwealth Education Minister to ensure that "every school-aged child in Australia has access to a fully funded government school".**

A key barrier to safe education, identified by many in my community for children with disabilities is the deficit of policy designed to disincentivise gatekeeping or discrimination in educational settings. At present, there are remarkably few incentives for educational settings to change their practices in relation to inclusive education, with a limited number of oversight mechanisms and no accountability for 'gatekeeping'.

The Australian Coalition for Inclusive Education Roadmap recommends a national zero tolerance approach and punitive consequences for gatekeeping practices, insists that families and schools be assisted to have a better understanding of what this is and when it occurs, plus have access to robust, transparent and effective mechanisms to make complaints and have them remedied at a school level.

The privatisation of education also represents a significant barrier to inclusive education, as the NSW government has a much more limited scope with which to implement appropriate policies and ensure oversight in private schools.

New South Wales has one of the highest levels of privatisation in early childhood education in the world with only 7.5% of approved services being publicly owned and run. Public pre-schools have demonstrated better outcomes and ensure that all parents and children have access to high quality early learning appropriate to their circumstances.

**Recommendation 4: Ensure free and universal preschool across NSW by 2030**

**Recommendation 5: Increase before and after school care in all public schools in NSW and remove privatisation incentives in early childhood education**

Young people with chronic illnesses and disabilities are disproportionately affected by both physical and mental health issues, as well as a lack of hygiene or safety in schools. The government must also ensure better pay and conditions for school counsellors, school nurses and school cleaners who support students with disabilities.

**Recommendation 6: Provide at least 1 additional school councillor for every public school in NSW over the next 4 years and reach a target of 1 counsellor per 500 students by 2030.**

**Recommendation 7: Increase the number of school nurses in NSW public schools, and ensure school nurses have appropriate training in the healthcare needs of children and young people with disabilities.**

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

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Young people with disability are too often discriminated against, subject to ableism, and denied the right to self-determine their own needs. The New South Wales government must confront ableism across our entire society and speak out against it at both an individual and systemic level.

**Recommendation 8: The NSW government should consider that being surrounded by peers is the key to deconstructing feelings of isolation and limiting the potential for a society of ableism should remain at the forefront of any new arrangements.**

The government should also consider the impact of representation for people with disabilities within the halls of parliament. There is no excuse for able-bodied politicians to have sole discretion over disability policy in New South Wales.

### **Recommendation 9: The New South Wales Minister for Disability Inclusion should be a person with lived experience of disability**

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

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Research has supported inclusive education for decades. Empowering young people with disability in educational settings sets up disabled people for employment and reduces ableism and discrimination in wider society. There are no downsides to inclusive education.

Schools must be supported and held accountable for promoting positive attitudes and behaviours that embrace diversity and inclusion, encouraging and facilitating students to achieve individual educational goals and positive social outcomes in and beyond school.

Inclusive education means just that; a system of classroom organisation that does not subject students with disability to discrimination, isolation and exclusion from the broader community - the horrible consequences of the too-commonly practised system of "segregation", a word inescapably linked with negativity and a practice of "othering".

Additionally, I submit that the UN Committee on the Rights of Persons with Disabilities provides the following useful definition in its general comment on the right to education under Article 24, as practices that must be distinguished from inclusive education:

- Exclusion occurs when students are directly or indirectly prevented from or denied access to education in any form.
- Segregation occurs when the education of students with disabilities is provided in separate environments designed or used to respond to a particular or various impairments, in isolation from students without disabilities.
- Integration is a process of placing persons with disabilities in existing mainstream educational institutions, as long as the former can adjust to the standardised requirements of such institutions.

#### **5. 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**

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Unfortunately, many teachers report struggling to implement inclusive education practices due to a lack of resourcing and support. Teachers, early childhood educators, learning support staff and others with a role in education children with disabilities have no desire to discriminate against children with disabilities, and this Inquiry must recommend a significant increase in investment to negate this issue.

Adequate resourcing and professional development are the most important ways to empower teachers to deliver and support inclusive education. Not only does it make

inclusive education logistically possible, it sends a powerful message across society, and reduces ableism in the broader community.

**Recommendation 10: Restore the 1200 non-school based expert teaching positions that were lost a decade ago and deliver 400 new positions by 2027**

**Recommendation 11: Any education and training practices relating to children and young people with disabilities should be co-designed by young people with disabilities, their families, disability representative organisations, education experts, teachers and their unions.**

**Recommendation 12: The NSW Department of Education should establish minimum neurodiversity and ADHD awareness and training requirements for teachers and educators, to be undertaken on paid time.**

**6. 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**

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The government should consider that public schools are increasingly becoming spaces in which community participation occurs. The inclusion of disability-friendly infrastructure will strengthen the connection between young people with disability and the wider school community.

**Recommendation 13: Ensure any learning spaces and school facilities include modified bathrooms and playgrounds that are accessible for all students with disability**

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

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Many teachers and students have expressed to me that the lived experience of people with disabilities is not homogenous – that there is diversity within the disability communities which must be recognised. These intersectional identities and experiences should be respected, celebrated, and reflected in the creation of policies which affect them in the school setting and beyond.

Among these policies is the removal of all environmental, social, cultural, attitudinal, and communication barriers to the full and equal participation of people with disabilities in all aspects of life and community.

One example is the obligation to ensure that all spaces, including digital spaces, are accessible and inclusive for students with disabilities.

**Recommendation 14: All policy related to people with disabilities and the removal of the social, cultural, economic, and environmental barriers experienced by people with disabilities should be guided by an understanding of a Social and Affirmative Model of Disability**

**8. The impact of policies regarding suspensions and expulsions**

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Four out of five students who are suspended from schools have a disability. This is clearly unacceptable.

The Greens support minimising the use of exclusionary discipline, suspensions and expulsions and instead prioritising reasonable adjustments to better allow students to participate.

It should be noted that reasonable adjustments cannot be implemented without qualified and well-resourced school counsellors, teachers and school staff to ensure children and young people with disabilities are supported. As a former teacher, I know how much teachers care about students with disabilities, and those teachers deserve professional support to ensure inclusive education in all classrooms.

## **9. The impact of policies regarding the use of restrictive practices**

Too often, unauthorised restrictive practices are used against children with disabilities in schools. In a number of these cases, psychotropic medications such as sedatives and antipsychotics are the main methods of restraint. This is an unacceptable example of the violence and abuse kids with disabilities endure in so many cases.

A transition away from restrictive practices must be done in consultation with teachers and their unions to ensure the best possible outcomes for students with disabilities. Careful consideration must be given to avoid any increased administrative burden on teachers accompanying stricter rules to avoid restrictive practices. Any additional training required should be undertaken on paid time. Similarly, children with disabilities, their parents and their carers should be educated on changes to restrictive practices to ensure the rights of kids with disabilities are clearly understood by school communities.

### **Recommendation 15: Eliminate the use of restrictive practices in New South Wales public schools as soon as possible**

## **10. 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**

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The Greens believe that students with disability have a universal, unchallengeable right to education and that it is the role of governments to ensure the foundational principle of equality of access for these students to mainstream education and enrolment.

At its most basic level is the recommendation that NSW and all other states and territories change their education laws to make it a right for students with disability to enrol in a mainstream school. Despite the fact that the number and proportion of students with disability in our schools is increasing, such students continue to face multiple barriers to inclusive education, underpinned by negative attitudes and low expectations.

Schools systematically exclude students with disability through a variety of processes, including failure to provide suitable adjustments and supports to enable their participation in classrooms and the broader school community. In too many cases, students with disability are channelled into special/segregated schools and classes. Schools fail to engage students with disability and their parents in decision-making, use exclusionary discipline practices, and fail to plan and support students' transition to further learning and work. As a Greens MP and a former teacher, I support a rights-based approach to this issue.

**Recommendation 16: Develop and implement a transparent improvement framework for inclusive education in line with the Australian Coalition for Inclusive Education's Driving Change roadmap for achieving inclusive education**

### **11. Measures to implement the Disability Royal Commission's recommendations in relation to inclusive education**

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I support the Disability Royal Commission's recommendations aimed at creating and sustaining greater inclusiveness in education.

I note with concern that the Royal Commission's report recommends waiting until 2051 to end segregated schooling, which the Greens and the Ballina electorate community believe is wildly unacceptable. In what world do we allow children with disabilities to endure segregation and ostracism from their peers for another 30 years!?

It is important to acknowledge that "temporary" segregated settings can easily lead to more permanent settings of this nature and replicate current obstructions to employment that students with disabilities will experience throughout their life. If this Inquiry fails to explicitly call for a transition to a fully inclusive mainstream education system by 2030, then this Inquiry leaves open the possibility of continued segregated education.

We cannot allow another generation to pass where kids with disabilities are shamefully segregated from wider society.

**Recommendation 17: The New South Wales government should ensure an end to segregated schooling by 2030. This transition must be made in consultation with people with disabilities, families, disability representative organisations, education experts, teachers, and their unions.**

### **12. Other business**

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It is important that Committee Members treat the testimony of children with disabilities and young people with the utmost importance and respect.

The design and implementation of any recommendations from this inquiry should be co-designed and co-driven by children and young people with disabilities and their chosen support networks. A clear strategy should be developed with tangible



measures of success to meet the needs of young people with disabilities and spur meaningful change. This process should:

- Ensure perspectives from young people with disabilities are centred,
- Be informed by evidence and grounded in human rights
- Be informed by the social and affirmative model of disability, and
- Incorporate the perspectives of teachers and students.

I also urge the committee to treat 'expert advice' on these issues with care, ensuring they do not take precedence over the lived experience of people with disabilities. Many experts come from a clinical or therapeutic perspective, and students with disabilities report to me that so-called "experts" often lack an understanding of the reasonable adjustments required in a regular classroom.

**Recommendation 18: That an easy-read version of the committee's report be distributed so that it is widely accessible to the neurodivergent community**

### **Conclusion**

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There has never been a more important time for the NSW government to act and ensure inclusive education in every educational setting across the state.

Not only is inclusive education a worthwhile pursuit in its own right, it will facilitate a much-needed focus on resources and conditions in educational settings which when adequately addressed will be of benefit to the entire education system.

The transition away from segregated schooling and toward inclusive education should be undertaken as quick as possible, with tangible milestones and mechanisms through which governments can be held to account.

Our young people with disabilities cannot wait any longer for reform in this space.

I reiterate my support for this Inquiry and look forward to reading its report.

Yours sincerely,

*Adjunct Professor Tamara Smith MP  
Member for Ballina and NSW Greens Education Spokesperson*