

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

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SUBMISSION

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



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and Community and Public Sector Union (SPSF Group) NSW Branch,

Submission to the Inquiry into children and young people with disability in New South Wales educational settings.

Thank you for the opportunity to submit to this Inquiry. The Public Service Association of New South Wales is the primary non-teaching union within the NSW Education system, with coverage of over 21,000 administrative and support staff in NSW Public Schools, as well as coverage of Department of Education employees engaged in supporting school-based staff. In addition, we have coverage of TAFE NSW and tertiary education institutions across NSW.

Whilst we support and understand the drive to educate children and young people with disabilities within mainstream educational settings, we do however have a number of significant concerns, **principally** around the issue of adequate and sustainable funding for the schools in NSW, which we outline below in response to the Inquiry Terms of Reference:

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

From the regular and consistent feedback we have received from our members working both within the Education Department and in schools across NSW, we are aware that there is significant opposition from the Department towards this initiative. We are aware too that parents of children and young people with disabilities are essentially divided 50/50 over whether or not this initiative is a worthwhile one to implement.

A fundamental issue here is some school principals see the NDIS funding which children with disabilities bring as a funding stream for the school – not funds to support a particular child. Many schools use funding of this sort as a sort of catch all, used across all students with learning difficulties as well as disability. The result is that the child who has been assessed at a set level is not receiving the full benefit of the assistance provided as schools struggle to cope with children who need assistance but don't qualify for it.

It is fundamental to the success of initiatives like this that schools are **fully** funded for all students with learning difficulties and disability so that the benefits of these programs are realised for the child, rather than used to paper over the cracks in the school funding model.

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

Over and above the obvious barriers around the cost of physical infrastructure, we can identify three principal issues here:

- The availability of specialist trained staff – an issue which is most profound in rural areas. Where there is a shortage of skilled staff available to support children and young people with a disability, this gap is all too often filled by a parent. As well-meaning and intentioned as this may be, it can place additional

unwanted stress on the schools involved. It should be noted that the pursuit of neoliberal policies, specifically the privatisation of disability services by the previous Coalition Government means children and young people with disabilities – especially those deemed to be ‘high needs’ often have difficulties finding appropriate carers who can cope with their particular specialist requirements (c.f. Hood, 1991; Pollitt, 1993).

- The impact, both physical and psychological on children *without* disabilities when exposed to children with significant behavioural issues. We are aware of the trauma which can be caused to both children and school staff both psychological and physical. In terms of staff, this has direct implications to the amount of Workers Compensation which will need to be paid – an unintended and unwanted consequence of the policy. The question which needs to be asked is: at what point do physical and psychological assault and abuse become acceptable and ‘the norm’ in order to justify receipt of NDIS funds within a school?
- There is much semantic debate as to how to interpret the term ‘inclusive education’. Neither the *Disability Inclusion Act 2014 (NSW)* nor the *Disability Services and Inclusion Act 2023 (Cth)* proffer a clear definition of this. Indeed, as Krischler et al (2019) observe: ‘inclusive education is by no means a clearly defined or universally understood concept’.

The *Disability Services and Inclusion Act 2023 (Cth)* offers the following in an attempt to provide clarity:

- **community inclusion supports or services** means supports or services to assist a person with disability to engage with their chosen community and culture, including by removing barriers to their inclusion in community and cultural activities.
- **education supports or services** means supports or services to assist a person with disability to prepare for, or participate in, education at any level.

Our view, however, is that there is still an unhealthy degree of ambiguity around these terms. Further, we would contend that insufficient attention is paid to the issue of children and young people with a disability not being able to participate in school activities fully in a mainstream setting and the potential for psychological impact upon them.

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

The provision of mainstream education for children and young people with disabilities in rural and remote areas is a matter of some concern. Economies of scale mean that the ability of rural schools to support students would be severely compromised or cost prohibitive. Some locations are so small in size (having as few as two teachers for a

K-6 size school) that provision of support will be cost prohibitive. Other schools will struggle to find adequately skilled staff to support students. In such a situation it is simply not possible for the school to adequately provide a suitable educational and learning experience for a child or young person with a disability. In such situations, even with additional funding, experience shows that centrally located special schools in larger regional locations allow funding and staffing to match need. Hence, we can foresee where there may be clear cases for not integrating children into mainstream schools in these areas.

d) the impact on children and young people with disability and their families associated with inadequate levels of support.

The term 'adequate levels of support' is one which we are somewhat wary of. It is a phrase which is at best ambiguous, and which leads to multiple levels of interpretation. There is a tendency within the NSW Education Department to work towards a 'standard' departmental plan where 'one size fits all'. Given the multitude of complexities experienced by many children and young people with disabilities such a generic, standard approach is nonsense. **Every** child needs a bespoke plan, irrespective of whether they are to be educated in a mainstream or specialist school environment. Each child needs a mobility plan and behavioral management plan and related support mechanisms which are unique to their own circumstances.

It is quite clear that without **adequate** funding and support, any attempt to integrate children and young people with disabilities into mainstream schools will be a policy failure. The reasons for this are outlined throughout this submission.

e) the benefits for all children and young people if students with disability are provided with adequate levels of support.

There is an inherent issue here in that not all children are **adequately** supported – either financially via NDIS nor with appropriately trained and qualified support personnel. The dangers of making an assumption of 'adequate support' run throughout this submission.

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

The connections between these are not in doubt. However, our position is that we have reservations – detailed throughout this submission – as to appropriateness of the use of mainstream, as opposed to specialist schools.

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.

Here we have grave concerns. We note elsewhere that there are insufficient trained staff to provide the level of care and support across the mainstream school system compared to that offered in specialist centres at the moment. Such a goal comes with a great cost in identifying, training and retaining a much larger workforce of teachers

and support staff which cuts to the core of our concerns around the need to provide an adequate and sustainable funding mechanism.

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

Resourcing - both in terms of physical infrastructure and staffing - is a major concern for the PSA. It is clear that many mainstream schools are not capable of accommodating many children and young people with a disability without significant capital investment in school buildings and facilities. The most obvious example would be that many schools have classrooms with accessibility issues.

Hence, in each of these locations, extensive modifications (or expensive equipment such as specialist wheelchair lifts) are required so that all pupils are able to fully integrate and engage with school life. We wonder if an attempt has been made to cost the construction work required. Connected to this point, is the cost of securing *all* school premises across NSW to ensure a child who is known to be a 'runner' is not able to leave school premises at their own volition. This is over and above the necessity of ensuring that all school premises are deemed to be safe and secure to allow for any eventuality.

We refer elsewhere in this submission to the availability of appropriately trained and skilled staff throughout NSW schools. There is a danger that whilst children and young people may be admitted into mainstream schools, the specialist care and support they require – which is currently offered in specialist school settings – will not be available. This will necessitate teaching and support staff diverting their energies and activities away from the bulk of students to deal with one student in particular – whom they are inadequately trained to deal with.

In terms of resourcing, much attention has been paid to the funding regime under NDIS. Elsewhere we refer to examples of schools actively seeking students with NDIS funding as an additional income stream. We are also aware from our school psychologist members of pressure being placed on them by both schools and parents to provide diagnoses for children which will enable them to access NDIS funding. We are also aware of parents attempting to deflect the cost of psychological testing onto schools rather than pay for an assessment themselves. In a similar vein, we are also aware of parents preventing our members from undertaking psychological assessment at the request of a school in an attempt to prevent their child being 'labelled'.

The issue of NDIS also opens up other potential areas of difficulty. The additional bureaucratic burden placed on schools to ensure all the relevant checks are made on those NDIS providers who need to enter school premises to provide care and services to children and young people is significant. This additional burden must in itself be fully funded so as not to divert funding and valuable staff time from elsewhere. In addition, most (if indeed, all) schools do not have the physical space to allow NDIS service providers the rooms needed to undertake the specialist services they are contracted to provide.

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

We know from our members that there are constant tensions around some children and young people vis a vis managing certain behaviours. These concerns are for both children and members of staff. On occasion, children must effectively be permanently segregated from their peers because of their behaviour – with extreme circumstances effectively meaning that a dedicated teacher and support staff member are working in isolation with a child or young person. In such a situation, we ponder the question as to whether this constitutes education or child minding? An unfortunate example which illustrates some of the difficulties here is that we have a member who recently had their finger bitten off by a child with behavioural issues. We are concerned too for the psychological wellbeing of children exposed regularly to some of the more extreme behaviours of some of their peers.

A connected issue here is the extent to which staff members may be required to engage in physical contact with a child to restrain them to either prevent self-harm or harm being done to others. There have been circumstances whereby staff have had to restrain children and this has been seen by others out of context. The resultant actions have sometimes led to investigations, 'garden leave' and undue stress when the actions of staff members were entirely just and warranted.

j) the impact of policies regarding suspensions and expulsions

There is considerable inconsistency in the approaches taken against student expulsion. We have examples where parents attempt to influence disciplinary decisions – often lobbying to have the terms and length of expulsion moderated. Our members do not feel that there is enough enforcement of the policy and many members, as we know due to student behaviour, continued to be injured and face many obstacles when returning to duty.

The PSA opposed the implementation of the changes proposed by the Department to the Schools disciplinary policy by the previous government, in line with the NSW teachers Federation. All Unions in this space are in agreement that there is a lack of support for students and staff around poor behaviour and disciplinary actions.

k) the impact of policies regarding the use of restrictive practices

We refer elsewhere in this submission about the potential for restrictive practices to be seen out of context. For permanent staff this can lead to suspension and investigation and for contract/temporary staff, dismissal. Currently, in mainstream schools, our members are compelled under a system whereby the use of restrictive practices is fraught with potential misinterpretation, with a number of unintended negative consequences. Without clarity in the operation of restrictive practices, the inclusion of children and young people into mainstream schools whose behaviour essentially requires the use of restrictive practices can only accentuate this already difficult situation.

The PSA can point to a number of instances where staff have been disciplined around

the use of restrictive practices. Increased use of the practices around students with a disability will only increase the issues exponentially.

l) the effectiveness and availability of early intervention programs

Such programs must be fully funded if they are to be effective. We would welcome a discussion with the Department as to how this can be facilitated.

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.

The current system is ineffective and is inconsistently used. We mention elsewhere in this submission about the almost constant dangers faced by both our members and children and young people within the NSW school system by a few pupils who constantly exhibit violent and unpredictable behaviours. Within a special school setting it is possible to mitigate against these actions – within a mainstream setting almost impossible to do so – for the reasons we have identified.

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

There is a Commissioner for Children and Young People – ergo this is essentially superfluous unless students are in Year 12 and would therefore fall within the remit of the Ageing and Disability Commissioner.

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

Unfortunately, our view is that the 2017 Report is not based on the realities experienced on a daily basis by our members, children and young people or other stakeholders. Whilst the 2017 Report called for greater resources, put simply, these have not been forthcoming nor are they likely to be to meet the requirements outlined in this submission.

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

We feel these are addressed adequately throughout this submission.

q) any other related matters.

- The PSA notes that any expansion of service to students through Public Education is a positive step. However, NSW public schools are still not funded to the level proposed by the Gonski review and the agreement between the Federal and State governments. Without addressing the fundamental underfunding/staffing of the system, any expansion of the burden on our public schools will result in worse outcomes for all.

- We are concerned that there is no specific reference in the above concerning the interaction between NDIS and the ability of children with disabilities to access (mainstream) education. We are aware of instances whereby school principals see children with disabilities as a potential lucrative funding stream for the school given their ability to access NDIS funds. Alongside this, we are concerned that there is a disconnect between the funding plans of NDIS and their operationalisation in schools.
- More generally the issue of NDIS and the intersection with schools/education is an omission which the Inquiry ought to, in our view, be examining if a comprehensive picture is to be gained, especially given that NDIS has a Quality and Safeguards Section specifically aimed at high needs children.
- We are concerned that the additional pressures which will inevitably be placed on all staff in mainstream schools will have a detrimental effect. This will display in terms of lower morale, increased levels of sickness and ultimately an increase in staff turnover. None of these outcomes is beneficial to any of the stakeholders within the NSW education system.
- We observe that the Terms of Reference made no mention of those young people currently within detention centres who are by default *excluded* from mainstream education. In addition, our members report the increased risk of staff being exposed to violent behaviour in these establishments.

Case Study

In the short case below we detail an example of the experience of just one of our members working with a child with a disability. This clearly shows the unfortunate circumstances under which our member operates – which are unsafe both from a physical and psychological perspective.

- An experienced School Learning Support Officer (SLSO) of over 22 years' experience works in a Mainstream School Support Unit where she works with a very aggressive and violent student – referred as 'Student AB'.
- Student AB returned to school this year and has hurt other students and staff including our member and the Assistant Principal. She has also permanently scarred a student. Another 6-year-old student refuses to return to the school after being choked by Student AB.
- Student AB is a ward of the state, in the care of the Department of Communities and Justice and Out of Home Care. The behaviour of Student AB is currently being 'managed' using a Reset Room where, students are not punished or excluded from class. The Department of Communities and Justice cannot find her a foster placement as she attacked her previous foster carer; her own sister and Wesley Mission workers.
- Currently two staff are required to supervise Student AB who has been placed on partial enrolment, only attending school for an hour a day. When she attends the other students are removed from the classroom and all pens, pencils, wall hangings etc removed so as there is nothing to use as a weapon.
- The school has been very supportive, and our member reports the paperwork has been put in for the student to go to a School for Specific Purposes, clearly being in the wrong placement at the current school.
- Our member has confirmed staff work to a behaviour plan for Student AB.
- Our members' health and wellbeing is suffering after witnessing the student attack other students and staff, and she has been assisted by Employee Assistance Program counselling sessions and has requested further sessions
- Our member has spoken to Health and Wellbeing within the Department of Education. However, the Department just encouraged her to deal with this privately with her GP. Numerous Work Health and Safety Incident reports have been submitted.
- The Behaviour Team from the Department of Education attended the school recently. Initially Student AB appeared calm before attacking the behaviour specialist within a period of 8 minutes.
- Student AB served a 6-day suspension and during this period staff still suffered anxiety despite the student not being at school.
- Our member believes the Delegate is aware but unsure of their involvement.
- Staff have spoken to the Principal about their concerns regarding Student AB. However both the Principal and the other senior staff in the school were at breaking point.
- Student AB urgently needs a placement at a School for Specific Purposes. Our member is however aware that the student is enrolled at high school for next year.
- School has been told Student AB has a right to an education. However, member questions at what expense to the staff: does someone have to be fatally injured?

Recommendations:

That consideration be given to:

- The issue of the use of restrictive practices must be clarified before children and young people with challenging behaviours are admitted into mainstream schools.
- Expediting the full funding of state schools to the Gonski level prior to placing any additional burden on public schools in NSW.
- The cost implications of the physical infrastructure needed to fully implement this policy.
- Ongoing staffing shortages are addressed before the policy is implemented.
- Appropriate support systems must be in place for both children and young people, along with all staff concerned. The Case Study included in this submission highlights the importance of this.
- The potential detrimental impact on other children of universal inclusion needs to be carefully considered.

References.

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