

**REPORT ON PROCEEDINGS BEFORE**

**PORTFOLIO COMMITTEE NO. 3 – EDUCATION**

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

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**At Preston Stanley Room, Parliament House, Sydney on Tuesday 26 March 2024**

**The Committee met at 11:30 am**

**PRESENT**

Ms Abigail Boyd (Chair)

The Hon. Mark Buttigieg

The Hon. Natasha Maclaren-Jones

The Hon. Tania Mihailuk

The Hon. Emily Suvaal

**PRESENT VIA VIDEOCONFERENCE**

The Hon. Anthony D'Adam

The Hon. Sarah Mitchell (Deputy Chair)

\*\* Please note:

[inaudible] is used when audio words cannot be deciphered.

[audio malfunction] is used when words are lost due to a technical malfunction.

[disorder] is used when members or witnesses speak over one another.

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**The CHAIR:** Welcome to the first hearing of Portfolio Committee No. 3 – Education inquiry into children and young people with disability in New South Wales educational settings. I acknowledge the Gadigal people of the Eora nation, the traditional custodians on the lands on which we are meeting today. I pay my respects to Elders past and present and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today. My name is Abigail Boyd and I am the Chair of this Committee. I ask everyone in the room to please turn their mobile phones to silent.

Parliamentary privilege applies to witnesses in relation to the evidence that they give today. However, it does not apply to what witnesses say outside of the hearing. I urge witnesses to be careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage Committee members and witnesses to be mindful of these procedures. Please also note that Auslan interpreters will be interpreting at this hearing and shown on the live broadcast. I ask members and witnesses to please make sure that they speak clearly into the microphone and wait until the previous speaker has finished talking.

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**Ms CAREY EVELYN PEARSON**, Acting Solicitor in Charge, Newcastle, Legal Aid NSW, affirmed and examined

**Ms MEREDITH HAGGER**, Principal Solicitor, General Practice, Youth Law Australia, affirmed and examined

**Ms REBECCA BELZER**, Solicitor, Australian Centre for Disability Law, sworn and examined

**Ms SARAH ABDOU**, Solicitor, Australian Centre for Disability Law, sworn and examined

**The CHAIR:** I welcome our first witnesses. Thank you very much for making time to give evidence today to the Committee. I invite each of you, or each organisation, to make a short opening statement. I will start with you, Ms Pearson.

**CAREY EVELYN PEARSON:** I would also like to start by acknowledging the traditional custodians of the land, the Gadigal people, and pay my respects to Elders past and present, and extend those respects to all First Nations people joining us today. I thank the Committee for the opportunity to appear today. As stated in our submission, Legal Aid NSW assists many children and their parents, guardians and carers with legal matters. Our criminal law division provides specialised advice and representation to children involved in criminal cases in the Children's Court of New South Wales. Our family law division provides specialist advice and representation for children in care and protection and education cases before the Children's Court, and our children's civil law service provides a targeted and holistic legal service to children identified as having complex needs, particularly those in out-of-home care.

I thought I would also give some context around my experiences with children and young people with disabilities in the educational settings. I started with Legal Aid NSW as a solicitor in 2017. Since then, I have predominantly practised in the family litigation team in Newcastle, and I am currently acting as the solicitor in charge of the Newcastle family and civil law office. I am an independent children's lawyer and a children's representative for care and protection cases in the Children's Court of New South Wales. I have acted for both parents and children in applications by the Department of Education for compulsory schooling orders, and I have also supervised other lawyers in representing mainly parents in compulsory schooling order cases.

**MEREDITH HAGGER:** I would also like to extend my deepest respects to any Aboriginal or Torres Strait Islander people here today, and also acknowledge the traditional owners of the land on which we're appearing. Youth Law Australia is a national community legal centre for children and young people. We aim to help any young person with just about any legal problem, no matter where they live in Australia. Legal issues connected with the right to education are an important area of our work.

Our submission contains five recommendations. First, on the provision of adjustments and support, which is critical to the experiences of students with disability at school, we submit that the New South Wales anti-discrimination legislation should include a standalone duty to make adjustments on educational authorities. There also needs to be a clear pathway by which students and their parents or carers can seek timely review of decisions about reasonable adjustments, access specialist support and referrals to advocacy. Consideration could be given to creating a senior and specialist position within the department with authority to make decisions in individual cases and to drive systemic improvement.

Students with disability are significantly over-represented in the use of exclusionary discipline. We have seen the use of exclusionary discipline against students with disability who are very young, sometimes as young as five years old. Exclusionary discipline can have serious impacts on students with disability. Decades of empirical evidence has found that, among other things, it doesn't provide students with the support needed to achieve behavioural change. It reinforces behaviours that it's meant to extinguish, it doesn't improve safety, and it actively contributes to disengagement with the education system.

In our submission, we recommended a review of the New South Wales suspension and expulsion procedures, including provisions for automatic departmental oversight where a student is suspended more than once or for a particular number of days. At the moment the system is in many respects reactive, and it puts a significant burden on students with disability and their parents and carers. This is a particular problem, given no legal remedy can replace or properly compensate a student for the loss of their education.

We'd like to add two additional recommendations for the Committee to consider. First, we support the Disability Royal Commission's recommendation for a positive duty to eliminate disability discrimination in education. Second, we submit that advocacy and legal advocacy is critical for ensuring that the rights of students with disability are maximised in education. These services should be funded and information about them made available to students with disability and their advocates as early as possible in their educational journey. Law doesn't have all the answers to the barriers students with disability experience at school, but in New South Wales

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there is significant scope for legal frameworks, policies and procedures to be reformed to become important drivers for a more inclusive education system. Thank you.

**REBECCA BELZER:** I would like to thank the Chair and members of the inquiry for inviting ACDL to give evidence today. My colleague Sarah and I are delighted to be here. By way of background, ACDL is a community legal centre which specialises in providing free advice and representation services to people with disability who have experienced discrimination. We primarily advise clients on their rights under the Disability Discrimination Act, the Federal legislation, and part 4A of the Anti-Discrimination Act, being the New South Wales legislation.

By way of background, ACDL receives funding from the State and Federal governments and the New South Wales Public Purpose Fund, as well as project-specific funding from time to time. In the 2022-23 financial year we provided 165 advices relating to disability discrimination in education, and that's about 35 per cent of the advices that we provided. In the same period we undertook 105 representation services in education matters, just over half of our representation services. You can see that education matters make up a large portion of our work, generally split equally across public and private schools.

The key areas that we wish to advocate for change can be grouped into two categories: firstly, into the relationship between children and young people, their parents and the school, and, secondly, in amendments to the New South Wales legislation and the operation of Anti-Discrimination NSW. To expand on these two categories very briefly, we would love to see parents in New South Wales better equipped with information about the rights of students with disability and with tools to assist the communication to schools. Effective education is only achieved when there is a strong and positive relationship between the school, the student and their family, so equipping parents with that knowledge and those tools will achieve the best outcomes for students in their education. Further, better equipping schools with guidance as to their responsibilities on how to effectively implement adjustments will see a significant change to students' education outcomes and participation, both in the school community and post-school life.

In relation to the second category, we recommend firstly that the New South Wales legislation is amended to include a positive obligation to consult and to make reasonable adjustments for a student with disability; secondly, that changes are made to reduce processing times for complaints at ADNSW; and finally, that ADNSW be granted power to make binding decisions in education matters. To conclude, if appropriate, I wanted to invite the Committee if they wish to ask further questions in relation to some of our recent experiences with clients who have seen really great integration into mainstream education—and the benefits that this provides, not just to them and their families, but to the whole school community—their peers, teachers. These positive examples could provide a bright spot in what can sometimes be a challenging and depressing landscape.

**The CHAIR:** I have a couple of initial questions that set the scene. Taking you up, Ms Belzer, on that offer, I think it would be really useful if you could give us some real-life examples of the difference that adequate supports can make to children with disability.

**REBECCA BELZER:** I would love that. These are all really concrete examples of things I have seen just in the past two to three weeks. They are not in our submission for that reason, but I thought they are really positive ways to show how schools can make a real difference. The first person is a mother I spoke with just yesterday. She's got a child aged 14, living in the Tweed Heads region and attending a private school. She really asked me to speak about the huge benefits that she's noticed, not just for her son but for the whole family, as a result of their son attending a mainstream school. She said to me:

As a community, we have people from all walks of life, backgrounds and abilities in our society, and school should be like that as well. The benefit for my son is he learns to be a confident member of our community in a safe school environment. But the benefits extend to his peers and teachers as well. They develop skills and confidence in building friendships with someone who appears a little different to them, and are also better prepared to succeed in a post-school environment.

She gave me this beautiful example where her son was supported by the school to attend camp. They had initially been reluctant, but they put adjustments in place so that he could attend an overnight camp. On that camp, he really bonded with a particular teacher, which was excellent.

Fast-forward a few weeks he was at school and his class—he is in year 7—were participating in PE. They were doing soccer; he couldn't participate in that. The teacher who he had bonded with was leading a year-9 group in African dance. My initial comment to her was that I thought that was an ambitious target for year-9 students to get them to participate. But her son, seeing this teacher who he had connected with, went over and said, "Can I join in? I love dancing." He started dancing, and suddenly the whole year-9 cohort joined in, and it became this incredibly joyful, free-flowing example of how including people with disabilities in life can make a real difference. I've actually seen a video and it's just beautiful.

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Another example I wanted to give was a client I was speaking with a few weeks ago at a private school in inner Sydney with a daughter in primary school. The school had taken great lengths to ensure that her daughter could participate in the swimming carnival. She said that it brought her to tears watching the whole cohort, particularly her daughter's year group, cheering so loudly for her daughter to swim. But she said even more than that, she had parents coming up to her afterwards saying, "For my child, a child without a disability, watching your daughter participate has encouraged them to participate, even though they equally don't like swimming. They equally find it scary to participate in a race." I just thought that really drives home the fact that that benefit is not just to the child and their family but to their whole peer group and their cohort.

Two other quick examples, if I may. A client I was speaking with about two or three weeks ago had a child in senior school who has regular seizures, and had had a seizure at school in the classroom in view of everyone. She said that post that experience, she then had parents reaching out to her to say that their children had come home and said to them, "This happened at school today. I didn't feel equipped to know what to do. Can you register me in first-aid training?" I think she said five or six students had gone and done first-aid training because they wanted to be able to support their friends better, and that those parents had also gone to do first-aid training. I think that's another example of how it benefits our whole community.

The final one was another parent with a child who's now moving into high school, and we're assisting them with negotiating with the school or liaising with the school to get adjustments in place. She wanted to tell me about the experience she'd had through primary school at a different primary school—a public primary school—and the fact that at the end of almost every year, the teachers had come to her and said something along the lines of, "I haven't taught your child. She has taught me."

The real, practical thing that she said about that was that each of those teachers had realised that implementing all the reasonable adjustments that we advocate for—simple things like really clearly explaining expectations for a task, or hands-on learning, or teaching in a visual manner—the entire class had benefited from that. There was no child that didn't become more engaged in their learning, become more excited to participate in school life as a result of having that child who did need some additional adjustments. Those benefits flow on, not just to those families, like I said, but to all these children who are now more engaged in learning because the teachers are putting that extra effort in. Teachers put a huge effort in—that's not what I'm saying—but they are taking those extra steps to work out new ways of providing information, and that changes the experiences for all the children.

**The CHAIR:** I'm interested in how the Anti-Discrimination Act helps or hinders in a preventative as well as a responsive way. I note that in the ACDL submission there is talk about amending the Anti-Discrimination Act. I know that in Victoria the Equal Opportunity Act is seen as being better, which is not hard, in my view, based on our Act. How does that play out in practice in terms of a better piece of anti-discrimination legislation helping to protect children from the outset?

**SARAH ABDOU:** Just in relation to the Anti-Discrimination Act, the provisions say that it is prohibited to discriminate against people with disabilities. It's not as comprehensive as the Commonwealth piece of legislation. That was our primary submission, to say that it simply states you can't discriminate against a person with a disability in the education context, but it doesn't necessarily spell out how or make reference to disability education standards, which provide guidance as to consultation provisions, or to making reasonable adjustments or anything along those lines. Similar as well, the Commonwealth piece of legislation, the Disability Discrimination Act, refers to the fact that the failure to make reasonable adjustments at school can amount to disability discrimination, whereas the Anti-Discrimination Act doesn't make that reference. I think in that respect it is more limiting than the Commonwealth piece of legislation.

**MEREDITH HAGGER:** The Disability Royal Commission was critical of the Commonwealth Disability Discrimination Act, and a lot of those criticisms could equally be applied to the New South Wales anti-discrimination legislation. The royal commission made recommendations about reform of the Commonwealth Disability Discrimination Act, and those recommendations, in my view, could easily be applied to the New South Wales Anti-Discrimination Act. In terms of the Victorian legislation, I think the strengths of that are the threefold compared to New South Wales.

Firstly, it doesn't contain the comparator test, which has been criticised as being artificial and misconceived and not focusing on the real issues at play in a discrimination matter involving disability. Secondly, it has a standalone duty on education authorities to make reasonable adjustments, and that is a simple test that can be applied. I know that Victorian Legal Aid in their submission to the royal commission made reference to the very positive impact that this standalone duty has had in their experience. Thirdly, as I mentioned in my brief opening statement, it does have a positive duty—it's not limited to educational authorities, but a positive duty to eliminate discrimination.

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I think that's important, because it shifts the system from being reactive and putting the burden or the onus on students and their families to advocate for reasonable adjustments and then to raise issues and make complaints where there are issues with the school, and instead aims to be more preventive, and eliminates systemic barriers to discrimination.

**The CHAIR:** Ms Pearson, did you have anything to add on that?

**CAREY EVELYN PEARSON:** I don't on that topic.

**The Hon. SARAH MITCHELL:** I have a few questions. One was just covered by the Chair in terms of the legislation. The other thing I wanted to ask all three groups about is the transparency around reasonable adjustments—a lot of you mentioned it in your submissions—particularly around what students and parents can reasonably request, how much of that comes down to views of individual schools and educators, and how those adjustments are in place. I would be interested in your feedback or comments in relation to how you think we can better improve that process, particularly for families to really understand what they can be requesting, but also how the transparency piece could be better available, not just to students and families, but to the broader community. I am keen for any ideas in that space from all witnesses, or whoever would like to respond.

**MEREDITH HAGGER:** Thank you very much for that question. I think issues around transparency of reasonable adjustments are a big concern for us, and something that we did address in our submission. I would say that at the moment what we often hear is parents don't know what they can ask for, and students don't know what they can advocate for. That's particularly the case often in non-physical disabilities, so disabilities such as autism spectrum disorder and ADHD. There is not a lot of transparency about what sorts of adjustments have been made in comparable cases, what they can reasonably expect and what might not be reasonable, and what has been refused in the past. We would advocate for much greater transparency there. What we have suggested is potentially there could be within the department a standalone senior position with expertise in disability services.

As I mentioned in my opening statement, that position could adjudicate disputes about reasonable adjustments, or where it looks like there might be a dispute between a school and a student about reasonable adjustments to intervene early and try to avoid the breakdown of relations between a family and a school, which we see all too often, and which can have really devastating impacts for a student with disability. It would be great to see a position that has the authority to make decisions about reasonable adjustments and to provide a level of oversight. It appears at the moment that often these decisions are based to a large degree on individual personnel within schools and principals, and there doesn't appear to be a lot of consistency. It would also be great to see more publication of data around what reasonable adjustments are made, and obviously that can be de-identified, but that would give a measure of transparency to what's happening in the system at the moment and could be an important driver for systemic change.

**SARAH ABDOU:** I second what Ms Hagger has said insofar as there is a lack of consistency with the types of adjustments that are available. On the one hand, in relation to reasonable adjustments, if there was a prescriptive list as to what those adjustments are, I think it could potentially be quite limiting. But a little bit more clarity about what reasonable adjustments would include, and some oversight, would benefit a lot of families. I had one parent last week—also very recently, so not in the submission—inform me that between one teacher and another, the adjustments that were implemented in the classroom were quite different.

The particular adjustment that she wanted for her child was an occupational therapist to attend the classroom for a couple of hours a fortnight. One year with one teacher that adjustment was refused, and in the same school, with a different teacher, that adjustment was allowed and greatly benefited the child. That discrepancy in experience and lack of uniformity across what is reasonable and what isn't—I think a lot of that burden then falls onto the parents to advocate for their child. Some parameters around what adjustments are suitable would be beneficial.

**REBECCA BELZER:** I was just going to add as well that I think consultation is the most critical way—effective consultation between parents, the medical team, if appropriate, and the school—to getting appropriate, reasonable adjustments in place. I absolutely endorse what Ms Hagger has said around transparency and a potential list of possible adjustments, but I think it is critical that real guidance is given to schools and parents around what a robust consultation process would look like, so that then they can come out with something that's not a cookie-cutter, "Every child with autism gets X", but something that's really tailored to that child's needs.

**CAREY EVELYN PEARSON:** I would agree with the other witnesses. Usually when I'm seeing families, it's at a point where there's been school refusal and we have children who are not attending school. A big part of the reason that we see is that reasonable adjustments were not made, and often the families that we are seeing express frustration with exactly that, not knowing what they are able to ask for—feeling like they are having to advocate not only with the school but with other services as well, and that there's not a lot of

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communication between services and the school. I think that what we see is either children falling through the gaps because they're not aware of what services are available, or their families are fatigued from having to tell their story and advocate for their children across multiple services that are not communicating with each other or with the school.

**MEREDITH HAGGER:** I would agree with that. Could I make one additional comment, which is around the need for timely reasonable adjustments? We often see a really lengthy process that parents and students have to go through to identify adjustments, negotiate with the school and make sure they're implemented. That can take a really long time and can really affect a student's experience, so any decision-making around reasonable adjustments, and also any options for seeking a review of decisions, need to incorporate that timeliness element, in our view.

**The Hon. SARAH MITCHELL:** I want to go to the issue of better support for students with disability when it comes to exclusionary discipline. Again, this is something that I think you all raised in your submissions. Obviously we all know the statistics are pretty scary in terms of how much children with disability are over-represented in suspension and expulsion statistics. Ms Hagger, you talked in your submission about the removal of the maximum number of suspensions—that removal of department oversight in the most recent iteration of the behaviour policy/strategy within the department. Are you hearing concerns from families and students about what impact that might have? You also talk about inclusive alternatives to suspension for students with disability, and I'm wondering if you could elaborate more on that.

**MEREDITH HAGGER:** I'm not actually clear on the reasons why that oversight was removed from the most recent iteration of the suspension and expulsion procedures. It had been referred to in the Disability Royal Commission's report favourably, and now it appears that there's no automatic trigger for departmental oversight of suspensions and expulsions. I would say that we're not necessarily hearing concerns about that, but we can see the unfair impacts that has in that it just means that parents and students with disability are having to continually deal with a school where relationships might have broken down, or they might not feel like they trust the school has the student's best interests at heart for a variety of reasons.

I think the importance of having someone who can have a semblance of independence and step in in those situations and make sure the school has implemented reasonable adjustments—they have been implemented consistently; they are the right, reasonable adjustments for that particular student, having regard to their particular diagnosis and medical assessments. In terms of the second part of your question, I would say probably two things. I think in the Australian Capital Territory their laws and procedures around alternatives to exclusionary discipline seem to me to be a lot stronger than in New South Wales, and potentially could provide a guide. They do provide for automatic monitoring from the department where a student has been suspended more than once or for a particular number of days.

They require oversight of whether appropriate supports and adjustments are being used. They require the department to look at the impact of exclusionary discipline on the student and their families, which is a really important consideration. For example, we had a primary school student with disability who'd been consistently suspended from a New South Wales school. The mother told me that she'd had to take so much time off work to pick up her child and to keep him home while he was suspended that she almost couldn't pay her rent, so the use of exclusionary discipline can have a serious impact on the families as well. Back to the Australian Capital Territory procedures, they also provide that where suspension's not achieving a desired behavioural outcome, and it is being used consistently for a particular student, that alternatives must be considered. I hope that answers your question.

**The Hon. SARAH MITCHELL:** That was good. Does anybody else want to comment on that issue?

**The Hon. NATASHA MACLAREN-JONES:** I might jump in, because my question follows on from suspension, particularly in relation to young people in out-of-home care. In the past in budget estimates we've asked about some of that data. We're told that the Department of Education and DCJ will be starting to share it, but really only on enrolment. I'm interested to know, in your experience, is data available to be able to fully know how many young people have been suspended from school and what impact that's having?

**CAREY EVELYN PEARSON:** I understand that there is some work being done in this area. I can't answer that question today, but if I can take it on notice?

**The Hon. NATASHA MACLAREN-JONES:** That's fine. Thank you.

**The Hon. ANTHONY D'ADAM:** Thank you, everyone, for your appearance today. I wanted to come back to the exclusionary discipline issue. I wanted to pose a question about the alternatives in the context of staff shortages in the public system. What are your views about the feasibility of alternative practices that are more

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time intensive, and what can we do to address those issues that are perhaps part of the systemic resistance to shifting away from reliance on exclusionary discipline?

**REBECCA BELZER:** I'm happy to answer in part. I can't really speak to alternatives in the sense of the post-behaviour discipline. What I would comment there is that I think when we see exclusionary discipline, it's very frequently in the context where there has been a behavioural management plan, or an individual education plan that's in place, and the school has failed to effectively implement it. I think that's where we see the root of a really large number of children who end up being repeatedly suspended. I would go back and press the issue that before you get to the behavioural problem, I think a large number of those behavioural incidences could be removed if the school had better support to actually implement the steps that are in the behavioural management plan.

Often when we speak to parents, we can see that they can link it really clearly—whatever the incident was, they can say, "X, Y and Z happened before that. We'd already told the school that if this happens, we might lead with this behaviour." I think, for me, it would be around how to effectively implement the adjustments that are already in place, and I think that would actually remove quite a significant number of the behavioural incidences where schools do then feel compelled to go down the exclusionary discipline.

**The Hon. ANTHONY D'ADAM:** Just on that issue, it strikes me that in most circumstances the schools are reluctant to use exclusionary discipline. That is a last resort. The purpose of my earlier question was really looking at your understanding of the systemic obstacles to those earlier steps being implemented, because it strikes me that part of that is just a work and time pressure on teaching and support staff in schools—the capacity is just not there in the system to be able to implement the plans in the way that is perhaps envisaged and that might avert a need to take a step towards exclusionary discipline. Can I invite some comment on that?

**MEREDITH HAGGER:** I would agree with Ms Belzer's comments, but I think you're absolutely right in that there's at least two barriers that we observe. The first is funding and resource pressures and shortages, and the second is capacity, and I mean that in the sense of appropriate training and qualifications around assisting students with disability for teachers and other school staff. I think it touches on an example that Ms Abdou has given in the past, but we've seen, for example, students having a really positive experience with a particular teacher at school or a particular principal, and then a change in staff and a complete change in the way that that student has been treated and the corresponding decline in their behaviour leading to exclusionary discipline. That shows the extent to which the current system is reliant to a large extent on individual personnel, so I think looking at the more systemic barriers and fixes in this situation is really important.

**The Hon. ANTHONY D'ADAM:** On that issue, the department has indicated that there are more than 200,000 children with a disability in the public system out of 800,000 students. There is an expectation that each of those students would have individual learning plans. How realistic is it that that can be accomplished, given that we are talking about a mass system? How realistic is it that we can meet that expectation of having that level of individual-tailored approach?

**REBECCA BELZER:** I don't think that I have the expertise to answer that question in that we only deal with individual clients when they come to us with a particular problem where we can see that discrimination has taken place, so I don't think we can turn our mind to that aspect of it.

**The CHAIR:** If I may interject there, just coming back to what your expertise is and what you have seen in this regard, I think sometimes there's a misunderstanding about what an adjustment means. Are you able to give us some examples of the types of adjustments—you gave us a few earlier—that have made a big difference that aren't really that onerous? Are there any case studies?

**SARAH ABDOU:** Sure. In relation to adjustments that make a significant difference, the one that I have mentioned where an occupational therapist or a speech pathologist or a counsellor has been able to go into the classroom, assess the classroom environment, and full well knowing what the child's needs are and what their disability is, can make some recommendations to a teacher.

**The CHAIR:** Can I just clarify that? We're not talking about the school paying for—

**SARAH ABDOU:** More often than not, they are NDIS funded.

**The CHAIR:** Right. So it's just allowing that person in?

**SARAH ABDOU:** Yes, that's exactly right. All the personnel would have Working with Children Checks and appropriate qualifications. Sometimes they are privately funded by the parents but, either way, it's not an obligation on the school to pay. That's one example. Another example would be allowing additional time in exams or additional breaks. Even those simple adjustments sometimes aren't implemented because it's not communicated

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across to the teacher that is examining that particular student, if it's not the usual teacher. Assistive technology sometimes comes up in terms of dictation software or typing. Those are just a couple of examples.

**REBECCA BELZER:** A few others that we see a lot of is sensory breaks for students, so being permitted to use sensory stimuli in the classroom can really assist their concentration. Movement breaks are incredibly helpful. That's simply the teacher being mindful of the time and permitting a child to step out of the classroom for a few minutes to engage in something that their paediatrician or someone like that has assisted with teaching them how to go through. Transitions are a really difficult time for students often, and so the school just putting in some scaffolding around how to support children during those transition times.

Another big one that we see is where there's a change in the schedule, so even just communicating those changes in the schedule to parents with a little bit of notice so that they can then prepare the child to say, "You thought there was going to be art after lunch, but today it is going to be X, Y and Z." Those are the things that we often see are what precipitate the behavioural problem that then leads to that disciplinary measure being taken. Things like that—I could go on for more.

**The CHAIR:** When you are talking about transition there, I know from experience with my kids, their school sends out a social story every time there's an excursion or whatever, but it's for everybody. Every child that can benefit from that ends up with a social story so they can prepare themselves for knowing what's going to happen on a day that's a bit unusual to their usual routine. We often hear that schools don't have enough resources or that there's not enough infrastructure in place to allow these adjustments to be made. What sort of percentage are we talking about that is of that less onerous nature versus the bigger types of adjustments that we hear about as being an obstacle?

**SARAH ABDOU:** We don't really have that data available. It's a really good question.

**REBECCA BELZER:** Anecdotally, I would say—I don't feel comfortable putting a figure on it—it's not a small number where students would benefit from those small steps being taken. But that is just my anecdotal—from my own matters. We couldn't provide that today.

**The Hon. ANTHONY D'ADAM:** I'm curious if the adjustments are low level and low demand on schools, how much resistance is actually encountered? I would have thought most schools are pretty positive towards making adjustments where they can, and that if there's a reasonable proposition around an adjustment that the school would be quite accommodating. You're probably at the pointy end because you're dealing with parents who are in situations where there's clearly a grievance that has been unable to be resolved, but perhaps that gives us a distorted perspective about how much resistance is actually in the system. Are you able to offer some comment around that?

**SARAH ABDOU:** Our centre does acknowledge that we are at the pointy end of those complaints and disputes, and often we are hearing what's gone wrong at school. We often do advise where there's been even suspensions and expulsions that sometimes those suspensions and expulsions are justified in the circumstance because it would impose an unjustifiable hardship for the school if it didn't do that, or how else is a school meant to address safety concerns where there's a breach of safety of other students or teachers.

However, more often than not we do hear, "My child has a learning plan in place, they need to be given 10 minutes extra exam time. They weren't given that exam time." Or, for example, "It took three months to even get a learning plan in place, even though I've provided the diagnosis to the school right at the beginning of the school term." I am sure there are plenty of positive stories, and some Rebecca has mentioned at the beginning, but there is quite a bit of resistance, and it does depend on individual attitudes as well as what our experience is.

**CAREY EVELYN PEARSON:** If I can also speak to this question and I think it will speak to the previous two questions as well—where I am seeing children and families is often at a point where we've come past that and there haven't been reasonable adjustments put in place, and we have children and young people who haven't been at school for a significant amount of time, up to years that they haven't been at school, before we're seeing them.

What I have found, at least in my practice, is that there is a lot of inconsistency in terms of the school's willingness to implement what sometimes can be reasonably low-level reasonable adjustments, at a point where not only are we facing what reasonable adjustments should have been in place for these children to start with, but also what is a pretty huge barrier getting back to school. Because they've been out for so long, there's often very significant anxiety around that. The children and young people are often acutely aware of the pressure on their families and most often are saying to us, "We want to get back to school. We want to be at school. But these are the reasons why we really can't." I think that it's very inconsistent, in my experience.

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**The Hon. ANTHONY D'ADAM:** Is this a question that is perhaps equally dispersed across public and private schools, or is this predominantly a problem in the public system or predominantly in the private system?

**CAREY EVELYN PEARSON:** In my experience, in terms of the work that I do, it's with the public school system. I wouldn't be able to speak to, though, whether or not it is also an issue in the private school system. I think that would be best left for the other witnesses.

**MEREDITH HAGGER:** I don't have specific data at my fingertips, but I would say we see a more or less equal distribution across public and private schools in New South Wales.

**REBECCA BELZER:** Similarly, I don't have the data, but I would say it's a fairly even split.

**The Hon. TANIA MIHAILUK:** Thank you for joining us today. It's been really interesting listening to you. I wanted to ask a couple of quick questions. One, is there a marked difference in your experience between primary and secondary? Is there perhaps more accommodation done at the primary school level than at the secondary, if there was a way of making comparison?

**REBECCA BELZER:** I will speak first. Anecdotally, I would say, yes, schools find it easier to implement adjustments in primary school, I think for obvious reasons. They have a single classroom teacher, they're not moving from classroom to classroom and that movement process, or the transition, as I like to call it, can be really difficult. We do see students or schools and parents struggling together to work out—"These adjustments worked really well in primary school. How are we going to implement them in secondary school?"

I think it is harder at times to put in the sorts of adjustments where they're really centred around space or movement, or that relationship between the student and the teacher can be harder. To be fair, I see schools grappling with that, trying really hard. I think parents do sometimes come at it going a little bit—"Can't we just do exactly what we did in primary school?" That puts schools in a tricky position to say, "The very fabric of high school is different to primary school and we need to be a bit more creative here."

**The Hon. TANIA MIHAILUK:** I thought that would be the answer. I also wanted to ask, your point of call when you're first dealing with a school traditionally would be who—the principal? Is there a delegated person that you find that you tend to deal with, or is it ad hoc? I'd like to know because for me, personally, I'm a guardian for my disabled brother, so I've had a lifetime of dealing with this sort of stuff. My experience tends to be—and I think you touched on it before earlier when you mentioned how families are really frustrated, because at every point of call you have to have the same discussions again and explain the issues and so forth. What I find is that there isn't a point of call at schools.

For 12 years I was the member for Bankstown, so in a lower House seat, and I had a lot of families in that electorate that I used to deal with in trying to help them navigate with their local schools as well. I felt that we were constantly dealing with different people. Rather than dealing with the principal or a delegate that is very close to the principal that could be the same person on each occasion, you're constantly dealing with different people. At one school it may be a particular teacher, and at another school it's a different position altogether that manages these sorts of incidences and issues. I wanted to know from your experience as advocates—we are looking for your guidance and experience—would the education system be far better off having a central point at every school from top down?

One, I think the principals need to be given a particular type of training in this area and actually champion disability from their level, from the top down. Should one delegate be given that main role of accommodating and supporting schools, and have that be a very senior position within the school system so that every time a family or different families have to manage issues, particularly as they are navigating different teachers, as you were saying earlier—I think one of your earlier examples was one teacher was very good and another teacher in the same school had a different experience or wouldn't provide those sorts of accommodations. I am open to all of you for your view on what I've asked.

**CAREY EVELYN PEARSON:** For me, when it gets to the point of there being an application for a compulsory schooling order, the families have been referred to a homeschool liaison officer, so there is a point of call. But that is very far down the line. I have found that, generally, most of the schools that I have dealt with, there is one person that they usually have nominated as the contact person for the family, whether it's a welfare officer or the principal or assistant principal. But there is inconsistency across schools as to who that person is, so we're often having to make those inquiries as to who is the person that the family should be contacting. But that's just within my experience of the schools that I've dealt with. I don't know that I can say that that's generally the experience of all families.

**MEREDITH HAGGER:** I would agree with that in terms of different schools having different roles, and I can definitely sympathise with your experience of having to explain somebody's needs again and again to

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different people. That's also what we often hear. Mostly when clients come to us it's because they have been suspended or expelled, so at that point the principal is the person involved. But it does seem like families often feel that there might not be a champion within the school for them or somebody who is being responsible for guiding the student through the whole of their schooling experience at that particular school.

**SARAH ABDU:** Your comments speak to one of our recommendations. One of our recommendations was to have a point of call for parents, have a policy and procedure that is uniform across schools, because it is very ad hoc. It just depends on the school. Often parents will reach out to the principal for adjustments and then, as mentioned earlier, there are staffing and resourcing issues in relation to schools are under a lot of pressure. The principal can't necessarily comment or address each individual learning plan or request for an adjustment in a timely manner, so there's a bit of a flow-on effect. I'd agree with your comments and recommendations to have a bit more of a policy or uniform approach as to who the point of call is for parents to request adjustments and liaise with.

**The Hon. NATASHA MACLAREN-JONES:** In your submission, Ms Abdou, there was a case study in relation to Tyrone and a behavioural management plan. It's a question for everyone—I'm interested to know what the appeal process is currently for a parent or a family if a school refuses to sit down and develop a plan, or they're not following that plan. What can parents do?

**SARAH ABDU:** In relation to Tyrone's case, for those unfamiliar with it, it was a nine-year-old child who has autism and ADHD, and there was a behaviour management plan in place. There was an independent learning plan in place. One of the adjustments that was really clearly spelled out in those plans was to have noise-cancelling headphones, as noise was a trigger for this child. During a fire drill that wasn't implemented, and then Tyrone had a meltdown. He ended up getting a little bit aggressive and then was pinned down by four or five schoolteachers and then secluded for about 20 minutes, and the OT wasn't allowed to visit him or anything during those times.

This is an example where the failure to implement an adjustment which was provided resulted in a behaviour that warranted suspension. But it is the failure to implement the adjustment that ultimately, we argued, led to the suspension. In that case, we ended up making a complaint to the Australian Human Rights Commission, and we settled at conciliation. But the process for that parent to make that complaint—she had to wait 12 months before a conciliation, and in between that time, change schools, and then try to do part-time education and homeschooling and things like that. It was a long, arduous process for that parent.

**The Hon. NATASHA MACLAREN-JONES:** I suppose that's the next question. How can that be improved? Because a 12-month process to have a decision made that the wrong decision was made in the first place, and the impact that has on that young person and the family—how can that be simplified? What changes need to be made?

**SARAH ABDU:** I think it's the preventative measures. It's about educating and equipping firstly schools with what their obligations are, and then training teachers and principals and having uniform policies and procedures—clear policies and procedures that parents can access then, as well, equipping parents with the knowledge about what their rights and obligations are. We've also submitted, in terms of a legislative reform, that more funding should be given to ADNSW, for example, to handle these complaints so they can process these complaints a lot faster. Whether that's possible or not, that's one of our recommendations.

**The Hon. TANIA MIHAILUK:** The Government is pushing back on any funding.

**REBECCA BELZER:** I think also giving a power to make a binding decision by ADNSW would make a really significant difference, because the process of going through the complaint is that it's just a conciliative process. If the other party refuses to participate in the process, ADNSW has no power to compel them to do that. If you get around a table and you don't reach an outcome, the client then needs to go to NCAT, and that can be overwhelming for people. I think for some of our clients, once we explain that process to them, they think, "It's too much when I'm already trying to deal with my child."

**The Hon. TANIA MIHAILUK:** Do you have examples where schools have refused to participate? Are there examples?

**REBECCA BELZER:** I'd have to go back and look.

**The Hon. TANIA MIHAILUK:** Because that would be very alarming, if there were either private or public examples.

**The Hon. ANTHONY D'ADAM:** I would be very surprised if the Crown refused to engage in a conciliation process.

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**SARAH ABDU:** In my experience, the New South Wales Department of Education has always participated in conciliations.

**REBECCA BELZER:** I was going to say the same, in that we could take it on notice to see whether that had happened before. I have had one example, not with a department school but another school, where they came to conciliation but they didn't put forward any meaningful settlement proposals, so whilst you could say they participated, it may not have been in good faith.

**MEREDITH HAGGER:** If I could go back to your question very briefly, I would say that discrimination complaints are a really important safety net, but we think that there should be a clear and easy initial step, for example, just an easy appeal within the department, and to have a decision-maker within the department with expertise in disability services who can make binding decisions and make decisions about resources quickly. Often the relationship between the school and the student and the parents is so important that making a disability discrimination complaint is a really big step for a lot of people, and they don't want to take that step, but they do want to have the issues resolved. I think having someone who has a degree of independence from the school and can make binding decisions on the school would be a huge step forward.

**The Hon. ANTHONY D'ADAM:** Are you saying that that process is not in place—an internal appeals mechanism, and capacity for either the director of educational learning or someone more senior in the department, like the secretary, making a determination and giving a direction to a school to comply? That doesn't occur?

**MEREDITH HAGGER:** I'm not an expert on everything that's within the department. Certainly there are options to make complaints, but I think what we would like to see is a very clear process by which someone with expertise in disability services and adjustments within the department can make decisions in these sorts of cases so parents and students know that there's someone they can easily go to who can make quick decisions. That position could also have a systemic oversight role as well, so looking at data and driving change across the system informed by complaints. I think that would be a great thing to see.

**The Hon. TANIA MIHAILUK:** I agree with that, because I think you're right in what you're saying. You do need that separation, and I don't think with the school directors, who are normally very close to the principals and schools that they manage, that that level of separation exists. I have seen examples myself where ultimately if you go beyond the principal and you end up dealing with the department, the school directors, for example, will back the exact position that the principal has put forward, so you end up in a situation where you're almost at a stalemate and you haven't resolved any issues. There does need to be some type of separation. How it can be done ultimately in practice is another matter. I am assuming the other ladies here agree as well, that there is some difficulty in that. Do you find that when you're dealing with the school director or anyone beyond the particular principal or school that the department tends to back the position the school had in any event? If you can't comment, that's fine.

**REBECCA BELZER:** I don't think I have enough experience in going beyond to see that.

**The Hon. TANIA MIHAILUK:** That's fine.

**The CHAIR:** I just wanted to ask a quick question about private schools being, I understand, effectively exempt from the anti-discrimination provisions. Can you explain how that plays out in practice? What do you do if someone comes to you from a private school with a complaint? Are you going to the Feds?

**SARAH ABDU:** Essentially the only mechanism or avenue for complaint is the Disability Discrimination Act, to lodge a complaint with the Human Rights Commission for a breach of the Disability Discrimination Act, which in fairness is more comprehensive than the Anti-Discrimination Act. However, the limitation is that the AHRC takes a longer time to process complaints than ADNSW and then, if the matter doesn't settle at conciliation with the Australian Human Rights Commission, the next step is to make an application to the Federal Court or the Federal Circuit and Family Court of Australia, whereas if there was a possibility for a child attending a private school or a parent to make a complaint with ADNSW, if the matter doesn't settle at conciliation, then the next step is to make an application to NCAT. It's just a faster jurisdiction. You can have orders made. It's a lot less costly and easier for self-represented litigants to navigate that jurisdiction.

**The CHAIR:** Is it the case in other States, do you know, that private schools are exempt from their State anti-discrimination legislation? Do you think that's unusual?

**MEREDITH HAGGER:** It's not the case in all other States and territories. In Victoria, for example, private schools are covered by the State legislation.

**The CHAIR:** Is that a recommendation from any of you that we—

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**MEREDITH HAGGER:** It certainly is from us. We would say that New South Wales laws should cover public and private schools.

**The Hon. SARAH MITCHELL:** I just have a couple of questions from the Legal Aid submission, so to you, Ms Pearson. I think it was recommendation 8. You talked about having better processes in child health screening to have an earlier diagnosis for some disabilities. Is that something that you envisage should happen pre children starting school, or where do you think that screening process should happen?

**CAREY EVELYN PEARSON:** I think that the earlier the better. My experiences, as I've said already, is mainly at the point where we have children who are not attending school for a variety of reasons, but one of the main ones that I see is due to, firstly, reasonable adjustments not being made, but also very much undiagnosed disabilities. The main ones that I have seen in my practice is really ADHD and autism. As I've said previously, one of the biggest issues that we see for families is a lack of communication between services.

One of the other really big issues in relation to the screening process is, particularly for families who are feeling the pressure of a child not being at school because of these issues—and that often comes along with other complexities and vulnerabilities for that family—seeing either an extremely long wait time to see anyone, or facing extremely costly processes to be assessed. I think that the earlier the better, but that collaboration between the Department of Education, Health and the Department of Communities and Justice is extremely important, and better support for families in knowing what services there are available, and access to those services.

**The Hon. SARAH MITCHELL:** I would agree. Thank you. I just wanted to also ask you about the points in your submission where you talk about school refusal, but also flexibility in education delivery—those last couple of recommendations. You've sort of touched on this already, but in terms of school refusal being almost a symptom of being in and out of school, suspensions, not having that trust, or not having the appropriate measures in place in terms of adjustments, are you seeing a correlation between school refusal and students with disability? Then, in terms of flexibility in education delivery, where do you think the gaps are in the system currently? What isn't being offered that should be offered?

**CAREY EVELYN PEARSON:** Yes. I don't have the actual stats in terms of the numbers of children who have disabilities or there's likelihood that there's an undiagnosed disability that plays into school refusal, but, anecdotally, I would say that, at least within my practice, it's two-thirds of the children that we are seeing who are experiencing school refusal. In relation to the flexibility, again, I think that one of the biggest things that we see is inconsistency across schools. The process that we have in terms of where we're acting for a child or young person or a parent where there's been a compulsory schooling order application brought by the Department of Education in the Children's Court, the first step that we usually do is a compulsory schooling order conference that is convened by a registrar of the court, where we're acting for the respondent, whether that is the child or young person or the parent—we will attend. There is usually then attendance from the homeschool liaison officer and either the principal or assistant principal, and if there is a welfare officer, the welfare officer.

What I have found, and members of my team have found, is we will go in with a similar set of proposals that we have seen work for one child or young person, and have the school say, "No, that is just not possible," for whatever reason that may be. One of the biggest ones that we have faced resistance to is flexible attendance when transitioning back into school. Some of the schools that we've worked with, and we've found that this really works for getting kids back into school, is being able to attend, say, for a couple of hours to start with, for a week or two, and then having a check-in with the school and seeing how that's going and then increasing that time. There have been schools that we've had resistance in relation to that. One of the big reasons that we've been told is, "We don't want to set the child or young person up that that's what their school experience should be. They should be going straight back in."

Another issue that we faced along a similar vein is that often the children and young people, particularly in high school, are feeling quite anxious about going back into a classroom and not being at the same level as their peers, because they've missed quite a considerable amount of school and already faced difficulties in terms of some of the schoolwork anyway. The issue is getting work sent home prior to coming back into school. We've had some success with that, and we've also had some situations where the school has said "That's just not something that we're able to do, or that we would support."

**The Hon. SARAH MITCHELL:** That goes back to that issue of inconsistency, depending on the school. You can see it must be frustrating when you see it worked well in some areas, but if it can't be implemented to scale or across other schools.

**CAREY EVELYN PEARSON:** Yes, very much so.

**The Hon. NATASHA MACLAREN-JONES:** This follows on from my colleague's earlier question, and also a comment Ms Pearson made earlier about homeschool officers. I just wanted to get a better understanding

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about when a young person is suspended, particularly in an environment where one or both parents are working. How is that supervision maintained at home for that young person, if the parents or parent is working, and who is ultimately responsible? Is it something that school should be ensuring, that the young person is getting the resources and learning materials, or does it fall back onto parents who are already under a lot of pressure and stress with everything that's going on?

**CAREY EVELYN PEARSON:** I don't know that I can actually answer that question, but I can take it on notice, or it may be that one of the other witnesses is able to answer that question in terms of the actual obligations.

**The Hon. NATASHA MACLAREN-JONES:** Or if you've received any complaints or issues surrounding that?

**MEREDITH HAGGER:** I can also take it on notice. I believe that the suspension and expulsion procedures do have provisions about continuing education while a student is suspended, but in practice a complaint that we frequently hear, or sometimes hear, is that schools haven't provided work or there hasn't been enough from the school to support that student during that period while they're suspended. Where it's a long suspension, that can be really critical to a student's education.

**REBECCA BELZER:** I would second that in the sense of the work. I don't think I can speak to the other part of your question. I've seen mixed responses: some where parents will tell me, "Yes, the school has sent home work and it's been great", and some where they haven't sent anything, so I'd say it's mixed.

**The Hon. NATASHA MACLAREN-JONES:** My final question is around the terminology of inclusive education. Another submission has raised concerns that it's not clear enough. I just wanted to know if any of you had an opinion in relation to that. No? That's okay.

**The Hon. ANTHONY D'ADAM:** I've been involved in litigation in another capacity and obviously when you end up at the conciliation table, part of the process is really trying to delve into what the source of the resistance is from the other side. I know you're all here as advocates for kids with disabilities, but I wonder whether you might be able to perhaps provide some insight into what you think is the source of the resistance, particularly in relation to the Department of Education.

Is it an argument about reasonableness, that there is no agreement about what's being proposed as being reasonable? It's fair to say that I don't think the department acts in a malicious or obstinate way for no reason. From your experience, what do you think is the primary driver of the resistance of the department to making adjustments? Is it a question that they consider them an unreasonable burden on the department? Is it about moral hazard? What is driving the reason why the department wouldn't want to make accommodations for kids who clearly have a disability and need adjustments made?

**SARAH ABDOU:** I might go first. In relation to the department, I definitely agree. I don't think there's any malicious intent in relation to the failure to make adjustments, and there are obviously a whole multitude of factors when it comes to disability discrimination complaints, and the reasonableness of either adjustments or whether a child has been discriminated in some other way. Those factors are considered before commencing a complaint, including whether the school has the resources to implement the adjustments, any kind of defence that the school has put forward. But often it's not about intent, it's more so about a lack of awareness and a lack of willingness to implement the adjustments due to ignorance or a lack of resources, as opposed to, "We're aware that we have these obligations under the Disability Discrimination Act and we're just going to ignore them." That's what's often been my experience.

**CAREY EVELYN PEARSON:** I second what Ms Abdou has said in relation to no malicious intent. I have found in my experiences that everyone that I've been working with, whether it is the school, the homeschool liaison officers, the lawyers from the department, the family, the children and young people, the court—we are all wanting the children and young people to be able to get the best out of their education no matter what their circumstances. I think that my experience has been in terms of resistance does come down to that lack of awareness or training as one part of it; definitely capacity of the schools is another.

But one of the other big ones that I have seen and have already spoken to you a little bit today is where it's undiagnosed. There's an undiagnosed disability that is impacting a child or young person's experiences at school. I think that sometimes, where there's obviously an issue for a student but there's no documentation, there's no behaviour plan, there's nothing in place yet in terms of reasonable adjustments—where I'm seeing these students is, because that hasn't happened, they've withdrawn from school. And we're not only sort of trying to assist this child and young person to go through that process of getting the right assistance and support in place but then get back into school as well.

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**The Hon. ANTHONY D'ADAM:** I'm assuming you support the move by the department towards a more functional needs assessment rather than relying on diagnoses? Is that the solution—to move away from a system that links supports to a diagnosis rather than a system where you just try to make adjustments based on the functional needs of the child, irrespective of whether they've got a diagnosis?

**CAREY EVELYN PEARSON:** I don't know that I have the expertise to particularly comment on that, actually.

**The Hon. ANTHONY D'ADAM:** In recommendation 3 of your submission, you talk about exclusionary discipline being avoided "unless necessary as a last resort to avert the risk of serious harm to the student, other students or staff." Obviously serious harm is a higher test than harm. Are you suggesting in that submission that we should tolerate some level of harm to other students or the student or staff? Maybe you'd might want to elaborate on why you think a serious harm threshold is the appropriate one rather than a harm threshold.

**CAREY EVELYN PEARSON:** This recommendation and area is not within my scope of expertise either, but I can take this on notice as it is something that Legal Aid NSW would be able to answer.

**The CHAIR:** Ms Pearson, in your submission—and also, Ms Hagger—you talk about the pipeline to prison from exclusion in particular. Can you talk a bit more about that given that you are lawyers? This is a good opportunity to ask about that aspect.

**MEREDITH HAGGER:** I don't know that I have a lot of expertise there. I know that there is research around the effects of exclusionary discipline that links it to the school to prison pipeline and that's what we would be referring to in our submission more than my personal experience advising clients.

**The CHAIR:** Do you have any case studies or any personal experiences at all in that?

**CAREY EVELYN PEARSON:** Unfortunately, that's also not within the scope of my experience. I understand that it would be something that, again, would be within the experiences of people at Legal Aid NSW. Obviously, as I've said before, our criminal law service does provide advice and representation to children and young people and also adults in criminal matters, and our children's civil or legal service also provides a holistic assistance for children and young people who are experiencing complex legal and non-legal issues that sort of encompass those issues, but it's not something that I can personally speak to.

**The CHAIR:** Thank you so much. This was an excellent session to start the first hearing day of the inquiry with and very ably translated by our Auslan translators as well. To the extent that there were questions taken on notice or that there will be supplementary questions, the Committee secretariat will be in touch in relation to the process for responding. That brings us to an end for this session. We will take a one-hour break and we'll be back at two o'clock.

**(The witnesses withdrew.)**

**(Luncheon adjournment)**

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**Ms EMMA BRUCE**, Organiser, NSW Teachers Federation, affirmed and examined

**Ms NATASHA WATT**, Senior Vice-President, NSW Teachers Federation, affirmed and examined

**The CHAIR:** I welcome our next witnesses. I remind the Committee that Auslan interpreters will be interpreting at this hearing and shown on the live broadcast. I ask members and witnesses to speak clearly into the microphones and wait until the previous speaker has finished talking. It worked quite well in the last session. I should not jinx it, but everything seems to be going very well. Thank you both for your submission. Do either of you want to give a short opening statement?

**NATASHA WATT:** Firstly, we would like to acknowledge that we are on the land of the Aboriginal people. This always was and always will be the Aboriginal land of the Gadigal people. I wanted to open by saying that the stratified nature of Australian society is reflected in the New South Wales schooling system. It is substantially driven by a set of public policies aimed at entrenching privilege within socially advantaged families. The intended outcome has been the residualisation of the public education system to the status of a safety net. Such a schooling system exacerbates social inequalities by excluding disadvantaged students from full academic and social development. Federal Government funding and school marketisation policies, or choice policies, alongside State Government dismantling of the centralised provision of public education to include all have been major drivers of residualisation.

Australia's school system is one of the most socially segmented in the OECD. Social disadvantage is the exclusion of people from social resources and power because of low socio-economic status or not belonging to a dominant social group. The public education system educates the majority of people from disempowered groups. We educate 82 per cent of low SES students and 76 per cent of students with disability. Equity is the provision of additional resources to disadvantaged social groups to support the pursuit of excellence and equality.

The proper levels of recurrent school funding to grow, recruit, retain and support an expanding system entitlement of well-qualified and specialised teachers alongside long-term recurrent investment in quality and specialised infrastructure and equipment are two examples of the amelioratory reforms necessary to provide the enabling conditions for all students, including students with disability, to achieve their best in school and beyond that. The disability loading in the original needs-based funding model was absent, and it has not grown commensurate with growth in diagnosis and need. We are still \$1.9 billion short this year alone in New South Wales public education. Over the last decade, until about 2021, capital investment in public schools was also half that of the private school counterpart. If we were to talk about that in aggregate figures, in the year of 2021 that was a \$2.7 billion gap between private school kids as an aggregate and public school kids.

Colleagues, to close gaps we must have an increased provision of resources to students experiencing social disadvantage, including those with disabilities. Our submission outlines the commitment of the NSW Teachers Federation and our membership, both past and present, to students with disability and the work that we have done advocating through other inquiries and such. Just to repeat a few figures in my opening, in New South Wales this year we have 86 per cent of students with specific learning needs in mainstream classes, 11 per cent in support classes and 3 per cent with SSPs. Federation members know that a strong public education system that includes everybody is one of the most important institutions in a democracy. We continue to campaign in this way.

**The CHAIR:** I want to talk about this concept of reasonable adjustments. The previous panel of witnesses explained to us the category of what you would view as being a less onerous reasonable adjustment versus those that might be a bit more. Can you talk about that from your perspective, particularly in the context of an under-resourced school system where teachers don't have very much spare time—i.e. zero or negative spare time? How does that impact on what is and is not a reasonable adjustment?

**NATASHA WATT:** Is it okay if we both take an answer to this? Emma and I are both employed by the union as officers now but we both have backgrounds in schools. My background is secondary. Substantively, I'm a deputy principal so I'm going to talk from that perspective, if that's okay. The NCCD data collection tells us that about 30 per cent—just under—of students last year are having an adjustment that attracts no funding. Students in that cohort are all different but a student, for example, with a vision impairment that doesn't need a whole lot of intervention might mean that the teacher is creating resources that are A3 in size rather than A4 in size. That might be an adjustment, for instance, that attracts no funding that the teacher is having to add into their workload. The child also might be sitting at the front of the room.

Those are the sorts of things that might constitute low-level adjustments that don't attract funding in a mainstream setting. Teachers might be adjusting their practice in terms of the way they communicate with a student, depending on their need. It might be that they have to be extra clear or say somebody's name or use a certain tone. If it's a child who's got some trauma, for instance, it might be about tone and the way you articulate

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to that student. Sometimes those students don't have any other resourcing support other than the adjustment the teacher is making. I will let Emma take an answer because she is an AP from the largest SSP in New South Wales—very different.

**EMMA BRUCE:** Yes, I have a very different perspective, but it essentially does come down to what constitutes a reasonable adjustment. If you're looking at a student who perhaps has a diagnosis of an anxiety disorder, the adjustment may be that that student needs to take breaks throughout the day and so that student has a method to communicate their need to take a break. It might be a break card that they flash up to the teacher and then they can take as much time as is agreed upon outside the classroom. That is a reasonable adjustment. However, in implementing that, you do need to consider the supervision of the student as well, which then becomes a staffing and resourcing issue because is there a staff member, a teacher, available to then supervise that student, maybe from a distance? That becomes a consideration in how we provide that.

For example, there are augmented communication strategies as well. I have quite a bit of experience with augmented communication systems—PECS, iPad and high-tech systems—which are reasonable and should be implemented. However, they do require training. They can be resource heavy in supporting the student to learn the augmented systems within a classroom. The one that I'm particularly familiar with requires two staff members to assist the student to learn in the initial stages, and then you progressively reduce the prompts and the support as they grow their independence.

However, in the schools that I have worked in, there are two staff members in the classroom. So if both of those staff members are working with that student to learn the augmented communication system, who's watching the other students in the class? Who's teaching the other students in the class while that is going on? These are all considerations that have to be made on a local level and in the context of an under-resourced and understaffed public education system. That's where we get that confusion and that back and forward about what constitutes a reasonable adjustment for these students. It's not an unwillingness to provide that adjustment; it's whether or not there is the capacity to provide that adjustment in the system as it currently stands.

**The CHAIR:** When people talk about, for example, ending restricted practices or preventing exclusions and suspensions of kids with disability, there is a very obvious and reasonable response that we sometimes hear from teachers, which is, "Well, if you do that tomorrow, then we're just not going to cope. It's actually going to be dangerous for kids." Or there is some other reason, and I personally think that's completely acceptable. But if we were to look at a goal in, say, 10 years time where we are trying to get to a fully inclusive school system, what would we be doing now to prepare for that, do you think?

**NATASHA WATT:** The most highly resourced area would be SSPs and support classes because of the size of the classes and the supervision and the educators and teachers who work with those students. I'm not going to talk about them. It's correct that those students have great levels of resourcing, though a whole other conversation is what is missing in that part of the system as well. But if we were to talk about the 86 per cent of students with disability who are in the mainstream of the total, that's an area of under-resourcing. For example, a student has a mental health diagnosis that manifests as externalising behaviours, and they are in the mainstream because of the way that manifests or the type of need, or perhaps the student hasn't been able to find a place because there isn't a place resourced in a support class where they would get, maybe, seven students and two adults, one of them being a teacher, and get more one-on-one support in that environment.

If that is not available and they are in the mainstream, then the resourcing support might be through the learning and support teacher, which we talked about in our submission, and some time with them. But the learning and support teachers are covering a whole bunch of students in the mainstream setting. They may also get an adult who is a learning support assistant or an SLSO to support their education. But it might be that that person intellectually is able to access the syllabuses and curriculum, but the mental health diagnosis or their need is getting in the way of them being able to learn. So we need people who have qualifications in behaviour, as we call it. In the system a while ago, we used to have itinerant support teachers, for instance, who used to be allocated a case load, like we have itinerant support teachers for vision-impaired or hearing-impaired students.

We used to have behaviour ones, too, who might come in and do additional support and work with that student on learning how to self-manage and help that student to manage themselves in the mainstream, for example. So there are provisions of specialist teacher types that need to expand in the system so that kids can access their education and learn about themselves and develop as well, I would say. Emma, do you want to add to that?

**EMMA BRUCE:** The question actually dealt with, I feel, two separate entities. One was the reduction and elimination of restrictive practices and the behaviour policy—the suspension and expulsion—which is a separate matter to creating inclusive environments in terms of what you were referring to. I believe that Natasha has effectively answered the question in terms of the inclusion aspect. In terms of the reduction and elimination

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**CORRECTED**

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of restrictive practices and suspension and expulsion, I refer back to my previous answer regarding the complexities of providing the adjustments and the proactive support. In order to reduce the need for suspension and expulsion, there needs to be adequate proactive support for these students to meet their complex needs.

We're talking about students who, because a need is being unmet and because of the under-resourced system, may be exhibiting those challenging behaviours, which may then result in safety concerns for those around them. In order to reduce that prior to, as in the past, attempting to cap the amount of suspensions that are possible, there needs to be a significant increase in funding and resourcing that will enable teachers to adequately meet the needs of these students. Again, it's not an unwillingness. There is no capacity in these situations. If that was achieved, there would be significant reduction in the need for those reactive strategies to be used.

**NATASHA WATT:** To answer the question about what we should be looking forward to, we should be looking forward to a system that has specialist itinerant support teachers of different types to go in and support students and their teachers so that they can be included in the setting that they're in. We also need to have more support class places, because we have students who just can't cope in the mainstream, depending on their need and diagnosis. Those students need access to a smaller setting. If you have a support class of seven students, for instance, in a mainstream setting, and you have a student there who, let's say, has autism, that student might struggle most with writing, for instance.

So English, history and all the writing-based subject areas that they need to access might be highly differentiated and scaffolded down in a very individualised way in a support class, in a mainstream high school, for example. But that same student might also have a real passion for chemistry and mathematics and a very high-level ability to do abstraction, which is perfect for a student of mathematics and perhaps chemical industry as well. That student might then be able to go into mainstream classes within a mainstream school, but what level of resourcing support goes with that student so they can access the mainstream teaching that's absent, perhaps, from that class of seven? That's not resourced well.

If we care about students achieving the learning outcomes that they are capable of and we are tailoring the system around the individualised needs of a young person, then we need to look at on-tap resourcing that allows them to do that, because the mainstream setting or classroom for a student with autism can be a very overwhelming experience. The teacher may well be doing adjustments to try to hold that student in but, depending on the student and their needs, that can be something that's not attainable for them. However, having an adult who goes with them, who is trained in the subject and understands autism—their itinerant support teacher, perhaps—and is able to move with that student as an additional resource to help them access their education and achieve learning outcomes on par with their peers in that area of the curriculum, is not available, and that should be made available. So there are lots of things that are missing and students are just having to cope.

**The CHAIR:** That's incredibly helpful.

**The Hon. ANTHONY D'ADAM:** Thanks for your submission. I wanted to ask about individual learning plans. I note in your submission you refer to a comment made by Georgina Harrisson about an expectation that every student with a disability would have an individualised learning plan. Given that the figures in the submission suggest 200,000-plus students with a disability in the New South Wales public education system, how realistic is it that we could expect those individualised learning plans to be in place?

**NATASHA WATT:** In your ideal world, with the right level of resourcing, having an individual plan for every child with a disability would be appropriate. The problem is the level of resourcing, not the idea that a learning plan isn't a good activity to do. As our submission talks about, given that we have had an explosion in the number of students over the last decade or so, what it actually means—thinking about the reality, we visited a school a couple of weeks ago. It was a mainstream school. We have two learning and support teachers who are qualified teachers who have specialised in students with disability, and the reality for those teachers is that that's all they do: They do individualised learning plans and the actual teaching work that kids in the mainstream are getting at that school is with the support of the SLSOs.

So the actual teaching work of the teacher is spent doing the planning work and the actual education of the students in the mainstream with a disability—those students are getting the support for their disability with somebody without a teaching qualification, for example. That's not a criticism of the SLSOs, but it's what happens when you under-resource and the students aren't getting the teacher with a qualification to help them with their particular need—putting all their time into that. They're doing the paperwork. So that's the major issue with that. It's not that any teacher objects to individualised planning; it's just that the resourcing and the time for it is just not there. Because, ideally, the planning document is to talk to the student and to the parent and to plan around the student so the student is getting what they need. That's the idea of such a thing.

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**CORRECTED**

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But, actually, in implementing it in a large secondary school, for example, or a large primary school—or any mainstream school, for that matter—the time is just not inside the resourcing of the school. So the staffing entitlement for the school hasn't gone up for that sort of thing to happen. When Georgina said that, I believe it did change practices because the secretary at the time said that. What I think was meant by that is that students in support classes in SSPs should have one, but the problem is now we have kids in the mainstream on different types of funding who are now all expected to have one. So low-level adjustment for disability, that's been extrapolated to everybody having one, which is an activity that people haven't got time to do. And even if they are doing it—say, on a school development day; at the start of the year we'll do it once—it might not be revisited. It's not a useful document for the ongoing support those students.

**The Hon. ANTHONY D'ADAM:** Is there any RFF or any relief time provided when a teacher has to develop an individual learning plan?

**NATASHA WATT:** Not in addition, given the explosion of the numbers and the increased pressure on the system and the concentrations of students with disability that are in the public system and not in other systems and other sectors—so no. But that is what our Gallop inquiry is partly saying: The reduction of face-to-face teaching hours that is needed for the profession of two hours a week across the board is partly to do some of this more complex work, because the understanding of what disabilities are and how we adjust for them has grown over a couple of decades but the commensurate resourcing in the system to provide space and time for the biggest investment in the system, which is the classroom teacher, to be able to make adjustments and make meaning out of that is not there. So that's the issue really.

**The Hon. ANTHONY D'ADAM:** I understand that the individual learning plans get signed off by the classroom teacher. In the previous session we had a number of advocacy law firms talking about the cases they ran. I think they cited one case where there had been a failure to implement the individualised learning plan. I'm concerned about where the onus lies in terms of the implementation of the teachers who clearly don't have the resources to carry the can for that kind of failure where the plans don't get properly implemented. Can you make some comment about that?

**NATASHA WATT:** The comment I would make is that it's just everything we've said already, to be honest with you. The onus should be on the system to provide the resources around the organism that is a classroom. Whether there are seven kids in a classroom with one teacher because it's a support class in a support unit in a mainstream school or four students in an SSP in a particular class of students of particular need, the onus has to be on the system. The expectation of doing individualised planning is wonderful, except that the resourcing has to be there for that important work to happen. We have to create the enabling conditions around the students and their teachers so that students are given the possibility to get the best out of their teacher so the teacher has the time, in this example, to do the planning that's very specific around a student with very specific and individualised needs. So the system really does have to provide the space and time. Going back to our opening remarks, we are the system that educates the vast majority of students with disability, and the vast majority of students with disability are in a mainstream setting, where there is no additional resourcing with a teacher that is adequate to do that type of work.

**The Hon. SARAH MITCHELL:** Thank you both for appearing today and for your submission. A couple of the things I wanted to ask have already been covered by other Committee members. In the submission you talk a little bit about the review at a Federal level: the better and fairer education system. Obviously one of the recommendations in that from the expert panel is around this idea of full service schools, where you have better integration of allied health and other services. Does the federation have a view on that particular recommendation, noting that you've talked a bit about needing those itinerant support teachers? Obviously resourcing would be critical, but do you think the concept of those service schools is one that is worth government pursuing?

**NATASHA WATT:** Yes. We would say that there are qualifications and expertise in allied health that could certainly benefit the education of young people. The coordination of that to honour the work in a classroom that supports the students and their teacher properly is one of the challenges we're facing. I visited a school in Taree about three weeks ago, and in that school I think they had about 80 allied health professionals wanting to work with the students in the school. That was just untenable for the school, because the school is not set up for that in that way because a school day, as most of you would know, starts on that bell and finishes on that bell and kids are doing all the things in between and the teachers are doing all the things that they do with the kids in between. So how do you put into that 80-odd allied health people who over, say, a term want to see, through the NDIS funding, the people they're working with from the families who have approached them? That's just not tenable.

One of the things that we would suggest is that we need to have those types of professionals employed through government with a coordinated approach at a systems level so that it was appropriately accessed. The

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other thing we would say about that too, though, is there are some allied health professionals, for example—not all disabilities are the same, of course. One of the ones that people find very challenging to talk about is students who have large externalising behaviours that people call behaviour, right? So mental health diagnoses that go with big externalising behaviours. Students like that, their parents may have found a person who has a behaviour qualification, but a student's behaviour in a particular setting—like all human beings, our behaviour in settings is reflective of the setting. We're behaving quite well, Emma and I here today. That doesn't mean we always sit and behave quite like this, like everybody here.

The idea that somebody can come in and understand each specific setting because they have a qualification of a certain type that's part of an allied health qualification—there is a gap in the ideas there. This is about, once again, understanding that schools are about educating young people, including students with disability, and understanding that the resourcing level in all these settings, whether it's an SSP, a unit class or the mainstream, would require a very coordinated and thought-out approach to how allied health works in those settings, in addition to the qualifications of those people.

In the public system, we and the Teachers Federation know, and it's in our submission, that dual-qualified school counsellors matter, because school counselling in the public system is about counselling to support them in their education. So having a teaching qualification and a psychology qualification really does matter because the counsellor is often working with the teachers to help them make adjustments or understand the student's need as well, alongside learning and support teachers, for example.

That's really, really important. Because if a person just has a psychology background and they're used to private practice, and they counsel in private practice a child of three—that's their specialisation. Transferring that into a high school, which could happen, and they're dealing with a 16-year-old in a different developmental situation and with different needs, it's not necessarily transferable because we're in an institution—say, a mainstream high school—and the student is 16 years old. Their needs and their developmental stage are not the same as this three-year-old and this other experience that that person might have.

The other thing I'll just mention—I've gone off on a tangent there—is speech pathologists. We know that speech pathologists or "speechies" are very helpful, especially in the early years as we start to understand, say, speech and language disorders in young people. They can often perhaps work in a school to document the need, but that doesn't necessarily translate to giving the teacher the time to understand that and translate that into support for the students in the classroom. So there's a gap in that as well.

**EMMA BRUCE:** I just want to add that while we initially support, we would have to insist upon appropriate consultation with the profession if that was to be established, for all the reasons that Natasha just listed. Schools are very complex places and students could benefit from that link with their allied health services, absolutely, but it needs to be workable within a school.

**The CHAIR:** Unfortunately, that's all we have time for. To the extent we have further questions, we'll put them to you in writing and the secretariat will be in touch in relation to how to respond to those. Thank you again for your submission and your very interesting and valuable insights today.

**(The witnesses withdrew.)**

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**Mrs LYN CATON**, Assistant Secretary, Independent Education Union of Australia NSW/ACT Branch, sworn and examined

**The CHAIR:** I welcome our next witness. Do you have a short opening statement that you would like to read?

**LYN CATON:** I do. Could I beg your indulgence: We didn't provide a written statement, so if it's a little bit longer than two or three minutes, is that okay?

**The CHAIR:** Go ahead.

**LYN CATON:** I'd like to begin by saying that the Independent Education Union of Australia welcomes the opportunity to provide feedback regarding the review of children and young people with a disability in New South Wales educational settings. The IEU New South Wales branch is part of a Federal registered union representing all employees in Catholic and other faith-based community and independent schools, early childhood education and care centres, post-secondary centres across all States and Territories. While that is the case, the majority of our IEUA members are teachers. Members also include employees such as teacher assistants, administrative staff, right down to gardeners, cleaners and caterers. Our current membership is about 31,000 members across New South Wales and we consistently engage in industrial and educational debate, both at a national and State level, through our education and industrial committees.

To realise the full and transformative power of education requires broad and deep attention to the lived reality of practitioners, and I'm sure you've heard that over and over today. The oversimplification of many complex issues within the educational context when discussing students with a particular attribute or attributes is to be avoided. Indeed, teaching unions and associations are the voice of the profession. The union acknowledges the integrity and the quality of the consultation and the analysis that has been and is being provided to us through this process.

The union has been heavily involved over a long time with disability discrimination and obviously the *Disability Standards for Education 2005*, DSE. We played a role in the development of those standards and provided submissions in the subsequent reviews in 2020, and the review of the *Disability Standards for Education: Mapping of teaching and school leadership frameworks* in November 2021. The aim of the DSE is to ensure that students with disability can access and participate in education on the same basis as students without disability, and that goes without saying, of course. The DSE is reviewed regularly every five years and we appreciate the opportunity to be involved.

As a general statement, we strongly support this review given that it's crucial for ensuring the access that I referred to earlier, and the inquiry demonstrates a commitment to addressing any gaps and challenges in this area. The review typically examines various aspects of disability support, including accessibility of educational facilities, availability of specialised resources and assistance, training for educators, and the effectiveness of existing policies and legislation. Of course, the aim is to identify improvement through our educational journeys. So, how? Your previous speaker was talking about individualised education plans. Similar to public schools, non-government schools develop IEPs or ILPs—or whatever you'd like to refer to them as—for individual students. These plans outline students' needs, goals, accommodations and support services and are tailored to the individual students.

One of the things we are concerned about is the definition of "reasonable adjustments" in the context of the NCCD and the NDIS. It's a major consideration, particularly with tiers one, two and three. The IEU strongly supports the current practices and management of students involved in inclusive education programs and plans in our schools. Currently, 20 per cent of our students—and I do refer to them as "ours". In our Catholic systemic schools and independent schools—there are 592 of them in 11 dioceses—20 per cent of those students are with an identified disability. That goes some way to the issue with the NCCD and the QDTP students, which are not necessarily identified in the same way.

The NCCD, of course, is an instrument that's used to collect data on Australian school students with disability. The processes used to collect, verify and store this data have been many and varied. Often our schools, unlike the government sector, have had some very comprehensive and—I'm not suggesting that the government sector don't have comprehensive documentation, more the point that the data through our surveys that we've found over a period of time was excessive, to the point that some of those ILPs were up to 19 pages in length on average. That was a directive from one of our employers, and it was duplicative, as much as anything else.

To address that, in 2021 we worked with the Department of Education in response to many reports about workload and time issues. We identified through that survey that there was work intensification, which of course was exacerbated by inadequate staffing and release time. That, of course, then flows on to a negative impact on

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the support for students. There was duplication of data requirements and deficiencies in the platforms that were being used in order to register those documents.

As a result we've negotiated, for the use of all non-government schools across Australia, a document which is a fact sheet which talks about what's necessary and what's not necessary. Instead of energy being put into creating documentation, it spends more time where teachers and the support staff in those classes are spending time—with the kids, rather than creating documentation, which quite often is, as suggested earlier, shelved and not referenced in the way it should be. They are absolutely important.

We'd suggest, in order to deal with this, that there should be a centralised toolkit or repository for curated resources, collated to address specific learning needs and adjustments. Part of the problem that we have is the recreation and reproduction of resources and things that an individual teacher, or sometimes a collective group of learning support team, create and recreate. That would also give a standard guideline for adjustments and clear guidance on the levels of adjustment.

What other things are important? Special education teachers and support staff. All of our non-government schools have some capacity to employ special education teachers and their teams. They're specialised and they obviously provide assistance with assessing the curriculum and support for social and emotional development. But we don't have enough of them, and those we have are exhausted. Infrastructure and facilities, accommodations—many non-government schools may not have adequate infrastructure. Of course, when you think about our scope of schools, we have those that are perceived to be very wealthy and those that are supporting intimate and—for want of a better word—boutique wider school communities, just by the very nature of where they're located.

Of course, physical accommodations are usually reasonably easy to achieve, and that could be extra bathrooms, adaptive technology, hearing aids and FM systems et cetera. But sometimes they are costly for our schools, and particularly if they're isolated due to geographic or resource disparities. The challenge, particularly in remote and regional schools, is the support for the whole student via having access to the allied professionals and to work with them in addressing the emotional, social and psychological needs by tailoring strategies to foster our students' cognitive mode and sensory skills. Distance and therefore isolation are the enemy of every child with a disability, and quite often these children are more likely to experience neglect and abuse.

Small class sizes, individualised attention and the tension of mainstreaming students in this context—given that 90 per cent of students with a disability attend a mainstream school, the focus must be on inclusion, keeping in mind that inclusion is not about location but about belonging. Indeed, in our Catholic schools it's 98 per cent mainstream, with specialist settings co-located with local mainstream school, or they're quite often involved in satellite classes. Our Aspect schools, who work with the autism spectrum, have smaller class sizes compared to other schools, running at between six and nine students with three adults in the room for the most part. This allows for more individualised attention and support for these students. Aspect teachers and learning support ratios are better to cater for each student's needs, but we can do more.

The pejorative language of the royal commission—particularly in recommendations 7.14 and 7.15, referring to specialist schools as "segregation"—is far from the lived experience of the families that we speak to, who feel that they have a profound sense of inclusion. These schools rarely operate in isolation from their wider education community. There's limited access to external specialists—and I'm sure you've heard that—such as speech therapists, occupational, psychologists et cetera. That's particularly bad.

We have situations in many of our Catholic schools where in kindergarten, for example, the teacher will identify in the first cache of testing in the first couple of weeks that there is a potential need for an assessment, and they will literally ask parents to book access to a counsellor or whoever is the appropriate professional to support them. It's usually nine months before they see someone, so we see that this is a major problem. Under the Shaddock review a number of years ago in the ACT, the suggestion of hub access and sharing of resources has some merit for consideration. The professional development of staff across our staffing in all of our schools, their needs—and certainly there was an article today from UNSW about the course that they're running and the need for professional staff development, which is applied to all staff, both as they travel through or throughout their career, but particularly in our pre-service teachers. Parental collaboration—

**The CHAIR:** Apologies, is there much more? I'm trying to get a time indication of how much you've got to go.

**LYN CATON:** Nearly there. I'll just give points, because I'm sure you've heard most of them.

**The CHAIR:** Thank you—people are eager to ask questions. Go ahead.

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**LYN CATON:** Sorry. The major thing about parental involvement is we have to give opportunities for parents to be involved, and denial and parent grief is a major issue. Having a parent accept that there is a recommendation for an assessment is quite often quite traumatic. The transition into postgrad; school leadership and resources I've already spoken to. Restrictive practice, of course—the ACT and Victoria have the senior practitioners, and it is a very successful and useful way of eliminating and minimising restrictive practices in a proactive way. They support by intervention prior to that being a problem.

So what are we recommending? Define "reasonable adjustments"; access to support and consultation; access to health and wellbeing specialists; issues around English as a second language for a lot of our parents, for whom that's a challenge; more support during the enrolment process, with more information and access; release time for teachers in order to do what they do best; more assistance for families of First Nations students; of course, funding, which comes down to the resourcing through the present funding levels and a review of that; and for our schools, the concept of choice and control. It is essential in addressing inclusive educational outcomes for our students. That's it, thank you.

**The CHAIR:** Thank you very much.

**LYN CATON:** Sorry, I do appreciate your indulgence. Thank you.

**The Hon. NATASHA MACLAREN-JONES:** If you do have a written submission, you're more than welcome to table that or lodge something else if anything was missed. You touched very briefly on some of the recommendations from the royal commission, in particular recommendation 7.15 in relation to achieving inclusion and retaining choice. I'm interested in your perspective in relation to the recommendation around having mainstream schools and non-mainstream schools located in close proximity but also allowing for students from both schools to participate, particularly socially, through different means and whether or not that is feasible.

**LYN CATON:** Absolutely, and I have lived that myself as a teacher in that capacity. The most important thing is, as I said, a sense of belonging. There are specific needs of individual students where there may be behavioural matters rather than—sorry, one of the problems we have in some of our classrooms is the ability to diagnose some students and have an assessment and provide support for them, and then in other situations there is obviously a challenge to their learning and they have particular attributes. But there's no capacity for that to have any kind of funding or resourcing around it except that that can be organised within the school capacity. To broaden the scope, to have mainstreaming and to have individual, designated, specific locations or facilities, which then can be interchanged or students can move in and out of, is very beneficial, as long as it's coordinated and addressed in a way that looks to what students need. That sounds very vague but mainstreaming and co-location can work and it can work very well. It's a question of the how.

**The Hon. NATASHA MACLAREN-JONES:** In relation to the independent learning plans that you touched on, I know that it is a requirement that all students have that. But we do know and we hear evidence of other things that it's not occurring. I'm interested to know and get some insight as to why that is. Is it purely just a time factor? Or are there other things preventing those plans being implemented and developed?

**LYN CATON:** In our sector there is an expectation of what is a reasonable adjustment and how that is then documented. That, of course, was one of the reasons we developed the fact sheet, because, as I suggested, we were getting 19-page documents, which in and of themselves were not helpful, because it was duplication and the time that was spent to produce that document for, say, 20 or 30 kids that you might have as a secondary teacher in your load is significant. There's a time factor, absolutely, but it's the relevance. Teachers will produce something that is usable, feasible and you can take to the classroom or you can speak to a parent, and it's a living document. It never becomes a static document that gets put on the shelf and put away. It feels like just compliance and ticking a box—is what has been happening for a lot of teachers. And you find then that they regenerate or replicate something that already exists which is not valuable to anyone.

**The Hon. ANTHONY D'ADAM:** Earlier in the session we had a number of stakeholders suggest that the exemption for non-government schools from the Anti-Discrimination Act with respect to disability should be removed. I wanted to get the position of the union in relation to that proposition.

**LYN CATON:** There are significant challenges, as you can imagine, with the Anti-Discrimination Act. Our perception is that the Act should be revoked in all its capacities, really. Because it doesn't do anyone any favours. We have a significant number of students that are in our schools with challenges and attributes that need to be addressed and supported. Any situation where discrimination is allowed to occur is not acceptable. Does that answer your question?

**The Hon. ANTHONY D'ADAM:** I think so. When you say "revoked", you mean that the exemption should be revoked?

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**LYN CATON:** There should be no exemption.

**The Hon. ANTHONY D'ADAM:** No exemption. I just wanted to clarify that.

**LYN CATON:** Sorry. I wasn't very articulate.

**The CHAIR:** I think we were all worried you meant the entire Anti-Discrimination Act should be revoked.

**LYN CATON:** No, sorry, definitely not.

**The CHAIR:** It is problematic. I understand that we collect data for public schools in relation to the numbers of suspensions and expulsions et cetera but we don't have that data from non-government schools. Is that something that your schools actually put together in any way? Is there any data collection of that kind?

**LYN CATON:** Given the broad scope of our employers—and we have diocesan employers, so there is something similar, of course, to how these processes are conducted. Certainly at a diocesan level, yes, absolutely, our Catholic systemic schools would do that. With regard to our individual standalone schools, they would complete that documentation but, as to how they share it, there would potentially be—I might get in trouble for saying this—a concern that there would be reputational damage in sharing that. But the union's position has always been—and certainly we've been involved with the process where this has been adopted in the ACT and I was involved in that process—that there should be no reason for that exemption to exist.

**The CHAIR:** Because I think we hear a lot about the idea that, obviously, with more resources, you tend to get better outcomes. We talk about the two-tier system between the public and private but, without that data, it's very hard for us to know if for children with disability there are better outcomes with more resources or not. The union's position would be that that should be able to be collected.

**LYN CATON:** If there is a facility that makes it fair and just for all, then there's an expectation we're supporting students and our teachers, and that data may well be very helpful in helping them address any concerns they have. I think one of the issues we have is, with behavioural matters—so, for example, while not trying to identify any particular challenge that some of our students have, ADD and ODD and ADHD all create situations for teachers and principals and learning support staff that the current resourcing in and around their support is very limited, and it's something that needs to be addressed, because there's an issue about time. If you've got a classroom of kids and you've got a child who has a particular behavioural challenge, it's the time to deal with that appropriately then that overflows potentially sometimes into restrictive practice—incidentally, not deliberately so, but seclusion or whatever that might look like. Then you've got the rest of the class to consider as well. Anywhere where the reporting in whatever capacity is able to collect data which is useful and relevant, we would support.

**The CHAIR:** The employer schools that you're looking after are quite different. We have obviously some very rich independent schools and we also have some not that significantly well-off independent and Catholic schools. There's a wide variety there. But in the private system, what does it look like when things are working well for children with disability? What is in place that really makes the difference?

**LYN CATON:** If I think about our Catholic systemic schools—because they fall most in line and I think it's easier for people to identify with, with regard to the government sector—we would say that the Catholic sector is most probably disadvantaged, to a certain extent, in being able to provide the support that they would wish to. What does a successful presentation look like for our—how would you select, for example, a school where you feel that your child with a disability is going to be looked after? I suppose the first thing I would be saying is that a successful school has an induction process or an introduction process that is inclusive and caring and transparent. Then there is the need for access to the allied health support; then well-trained staff, who are cognisant but also adept at dealing with whatever attributes the children in their class—and they are varied; and then the resourcing for the ongoing support for the development of that child. It's complex. While many of our schools do a really good job, I would never say that it was perfect and there's always room for improvement. Resourcing is one of the most important ones, whether it's physical or monetary or other.

**The CHAIR:** In terms of the union's approach to a transitioned approach to ending segregation in schools, so that we end up with the idea of truly inclusive education, what is the union's position on that?

**LYN CATON:** In representing our schools, I would suggest that we don't see it as segregation per se, in the first instance. We have seen lots of examples of how an independent and directed approach, or organisation within the capacity of the wider area of the main school to kind of create a precinct or a space where they can have shared facilities—and we've got many of the schools, particularly in our Catholic and our spec schools, they run satellites both in early learning and so forth. That works very well, both in the playground and, as I said, personally I have taught in those spaces and I see that as a really positive thing. I think moving everyone into a mainstream is not going to be the answer. I don't think it addresses the needs of the students in a way that I would

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**CORRECTED**

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see—and that would be the union's position. They should be about choice and control for the parents to choose where they think their students should attend school.

**The CHAIR:** Thank you. That's incredibly useful.

**The Hon. MARK BUTTIGIEG:** That's an interesting contribution because it kind of gives you a practical way forward. In terms of choice, though, how does that interface with the parents' choice work with teachers, for example? What would be that hierarchy of—ultimately, how would the decision get made? Obviously the parents might have a different perspective to teachers in an environment like that. How would that pan out?

**LYN CATON:** Okay, I'm not quite sure of the question.

**The Hon. MARK BUTTIGIEG:** Didn't you say that there would be—it's not practical to have full integration always, therefore you have these kind of spaces—

**LYN CATON:** Satellites or spaces.

**The Hon. MARK BUTTIGIEG:** "Satellites" was the description, yes, in order to give parents choice, I think was your—but if a child or a person with a disability is problematic in the teacher's view, does that mean that the parents would still get to decide that they—I'm just trying to work out where the decision-making process would lie, that's all.

**LYN CATON:** The decision lies with the parent. Say we've got a school called St Pat's. If a parent decides that they want to enrol their child in St Pat's, there's no capacity for them to be refused—and nor would they be. Our faith-based schools are inclusive in that capacity. If they then arrived at the school—and this is, I suppose, what I was speaking to with the introduction to the school: the conversation, the transparency, what's available. The parent makes an informed choice about where they would like their child to go. If they've got older siblings or something, all of those things are considerations, of course. The child comes first. The parents then have that capacity in our schools to decide where they'd like to enrol their child. No child will be rejected in that capacity, so there's no question of segregation, as in, "You go over there because"—a school might say, "We've got this capacity. If you come to our school, we can do this and you will then be able to use the facilities or the capacities of this school, which are onsite, and these are the kinds of interactions or activities that we do together in order to support our students." But no student would be rejected.

**The Hon. MARK BUTTIGIEG:** No, but the parent could ultimately say, "No, I want full integration. I don't want the satellite option."

**LYN CATON:** Yes. That would be negotiated. It's about what's best for the child. And I'm certain that that is what happens in our schools—and if I'm wrong, I'm in trouble! No, I was being silly. But, yes, it's really important that—

**The Hon. MARK BUTTIGIEG:** And, in your view, that model is working?

**LYN CATON:** Yes. I can say, hand on heart, I've observed it on many occasions.

**The Hon. MARK BUTTIGIEG:** How ubiquitous is it? Is it everywhere or is it not in enough places?

**LYN CATON:** I think it really does depend on the nature of the community that they're establishing. There's always room for improvement. If we think about some of our remote and isolated schools, where they don't have that option and they'd like it—it's hard to give a blanket answer to that, given the diversity of our schools and the locations.

**The Hon. MARK BUTTIGIEG:** The bottom line is that's the exemplar and it should be rolled out across the system?

**LYN CATON:** I wouldn't go that far—not because it's not a great model, but that would be like me saying that every child in a Jewish school should attend a Catholic school. It just doesn't work in our sector. It would be irresponsible for me to say that, to make that as a call. But the premise that there should be choice, there should be options and that should be facilitated is really important. I know that's a very fluffy answer but I think that's the best answer I could give you.

**The Hon. MARK BUTTIGIEG:** No, I understand.

**The CHAIR:** Thank you. Unfortunately, that's all we have time for. Thank you so much for coming today. Please feel free to table the opening statement. To the extent there are supplementary questions, we will be in touch. But that brings this session to an end.

**(The witness withdrew.)**

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**Ms JULIE-ANN BOND**, Industrial Manager, Public Service Association, sworn and examined

**Mr TROY WRIGHT**, Acting General Secretary, Public Service Association, affirmed and examined

**The CHAIR:** I now welcome our next witnesses. Mr D'Adam is an apology and has had to leave unfortunately, but we have Mrs Mitchell and Ms Mihailuk still online. Do you have a short opening statement you'd like to read?

**TROY WRIGHT:** Thank you, Chair, and the Committee for the opportunity to appear today and also the opportunity to provide a submission. I'd also like to, on behalf of the association, thank the Committee for its patience in our submission, which we acknowledge was held up due to factors beyond our control. For those familiar with the association, we are a State-registered union with 40,000 members across the State public sector. Among those many thousands of members, approximately 8,000 at least are employed in the Department of Education. Among those 8,000 members are many school learning support officers, who are the employees directly responsible for the integration or the supervision of children with a disability in our State schools.

Our message on behalf of those members to the Committee is, one, to say, "Please take a breath." They feel overwhelmed. The pace of change in their area of work has been, at best, probably described as dynamic and, at worst, probably described as chaotic. They feel stretched and they hold fears that the very valuable work of the Committee today and over the coming weeks will result in more change when they're struggling to keep up with the previous ones. They are stretched for a number of reasons and the Committee would have, as we do, the department's latest statistical bulletin, albeit from 2022. If you look at that, you can see that there's been exponential growth, year on year since 1996 when statistics began, of children with disability in the Department of Education's work. Every single year children with disability have increased, whereas the general student population has risen and fallen during that time. Children with disability have become an increasing proportion of the children in school and, as such, an increasing focus of our members' work.

The moves late last year by the department to ensure permanency for a large number of our members have been gratefully received by our members and go some of the way to stave off the stress. Whilst the Committee's terms of reference are very broad, we really wanted to come here today on behalf of our members and concentrate on four issues that, for them, are paramount and they wanted brought to the Committee's attention. Number one of those issues is the training and personal development, which has been something that has dropped off for them and that they feel desperately in need of. They seek to be recognised as professionals. They know that the work they do is extremely valuable to not just the children they support but the community as a whole and the education system, yet often they feel like they are treated like the poor brother or poor sister of the department who are the professionals in the organisation that don't receive the same attention as their teacher colleagues do.

Number two is what is already a difficult job has been made very difficult by the absence of a particular policy that they're particularly concerned with. That is the Restrictive Practices policy, which directly relates to some of the terms of reference of the Committee. There was to be a Restrictive Practices policy introduced this year but it was put off by the department in April last year and has been put back for introduction in term 1 next year. Our members are gravely concerned that this leaves both them, as individuals and workers, and the department in a potential black hole of liability where they're unsure of their roles and responsibilities and unsure of what they're supposed to practice in the event of a difficult behavioural episode by a student. My colleague Julie Bond, industrial manager, has examples of this that we can explain to the Committee, if required.

Number three is the introduction of a student learning support officer—I've got to get the acronym correct—student health support officer. With the increasing number of children with disabilities in schools, we're seeing an increasing number of children with very complex medical and health needs that require treatment during the school day. Currently, again, we have an issue where our members feel grossly unqualified, and untrained a lot of the time, to perform those duties. There's been an introduction of a position which, as I said, is called the student health support officer. There aren't enough of those positions and our members have grave concerns about the volume of training that position gets when it's actually performing some rather complex medical tasks.

The fourth issue is probably one that's been before the Committee a fair bit in its dealings already. It's about infrastructure. Our members are concerned about the lag in infrastructure to accommodate children with disabilities. Finally, what they wanted us to say in our opening statement was what we are witnessing, as their union—and it's a trend right across the department—is that these stresses are resulting in a massive increase in workers compensation claims by our members, either through physical or psychological injury. By our calculations from the department's own figures—and I hope it has been brought to the Committee's attention before today—there was a 34 per cent increase in workers compensation claims in the last financial year. That is, for us, a clear demonstration that something is going wrong for employees in the department and we would

**CORRECTED**

suggest, based on our anecdotal experience, that a large number of those claims are coming from our membership and it's because of the issues that we've presented today. We are happy to take some questions, Chair.

**The CHAIR:** I will ask one quick one before handing over to Mrs Natasha Maclaren-Jones. I wanted to get some examples of those complex medical needs requiring treatment. Can you give some examples of what that looks like?

**TROY WRIGHT:** I'm very happy to. I'll have to go to some documents by the department, if you can bear my cumbersome explanation. A student learning support officer, within their job description—so to go back a little bit in time to give a bit of context, in 2019 the association was successful in winning and settling a large pay equity case on behalf of our members employed in education. It was a case that we ran that said, "Look, this is a workforce that is predominantly women and, because of that, they have been historically underpaid." It was settled with the department with a very large increase in their base salaries to our satisfaction and our members' satisfaction. As part of that settlement, there was the introduction of a new position description—or up until then, we didn't really have a position description and it was quite a large industrial for us.

A student learning support officer—a general one in their general work—is required to provide first aid related to this role and administer medications including activities related to diabetes management, which might include blood glucose measurement, administration of insulin, management of an insulin pump, administration of glucagon and administration of medication via an identified route including oral, nasal, buccal, eye, ear, gastrostomy button or tube or nasogastric tube. Thank goodness I'm not in the medical field as I struggle to pronounce most of those words. They are also required to administer medical rectally or via injection in an emergency as required under a student health plan. A student learning support officer has minimal training and that is the level at which they're required to operate and probably what would be expected in most workplaces—that someone could administer immediate first aid. The second position that was created out of those negotiations—

**The Hon. MARK BUTTIGIEG:** Sorry, Mr Wright, can I ask whether that is a dedicated role?

**TROY WRIGHT:** So that's a student learning support officer, which there are thousands of across the department. They are either attached to a student or attached to a class or school, generally. It's either one or the other and nearly every single school will have a couple of student learning support officers, traditionally called, and in other jurisdictions still called, a teacher's aide. In their job description in New South Wales, that's among their duties. That's the diabetes management, first aid—that sort of stuff. They generally think, "Okay, with a bit of training I feel comfortable at that level."

**The Hon. MARK BUTTIGIEG:** Just to join the dots very quickly, is the problem that you have a situation where these generalists, who are a legacy from the generalist system, have been told, "We have a kid with a disability; you look after them"?

**TROY WRIGHT:** Yes. Nearly every SLSO is looking after or supporting a child with a disability in class. It's just that level of medical—there's an assessment made when that child is brought into education, as I understand, about what level of support they require medically. If it's general, if it's generic, if it's not as severe, it's obvious an SLSO will suffice. If they are assessed as someone who requires higher needs, they should be appointed what's called an SLSO SHS, student health support. This is the sort of role those people are performing:

- Enteral feeding
- Tracheostomy suctioning
- Oral suctioning
- Clean intermittent catheterisation
- Supporting student to undertake clean intermittent catheterisation
- Diabetes management ...
- Administration of medication ...
- Ostomy care
- Seizure management
- First aid

Traditionally, we had some nurses employed in schools performing those duties. What happens right now is we have a high level SLSO who is only receiving one day of training every two years to perform those duties, as well, on children identified. Our members have grave concerns that isn't sufficient.

**The Hon. MARK BUTTIGIEG:** The SLSO is the base level?

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**CORRECTED**

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**TROY WRIGHT:** Yes.

**The Hon. MARK BUTTIGIEG:** Then you've got that intermediate one with the extra training and then there's a nurse?

**TROY WRIGHT:** There are no nurses anymore.

**The CHAIR:** That was going to be my next question. There are no nurses, so you have people without any medical qualifications doing procedures that, if they went wrong—with something like the insulin, for instance—it could be fatal.

**TROY WRIGHT:** Yes.

**The CHAIR:** There's no-one else to do that, so that falls to an SLSO?

**TROY WRIGHT:** Yes, and our members feel like they are in a very grey area professionally, legally and of course, in respect of the child, directly, that they are performing functions that they do not feel completely comfortable, trained or qualified to do. It's a major issue. As the number of children with disability increase in our schools, the number of children with high medical needs are obviously increasing correlating as well. So the number of children who require these positions are increasing. It's a point of rub for us about what level of training these members should receive—we believe that one day every two years is grossly inadequate; how much they should be doing and whether there should be nurses re-engaged; and how often a person is given that allowance and that position created with children. We believe there are arguments and this regularly comes up through our delegates. If you want to jump in at any time, Julie, please do.

**JULIE-ANN BOND:** Thank you.

**TROY WRIGHT:** You have more firsthand examples. Regularly, it's an issue raised by our delegates that child X should have been afforded an SHS and they weren't, and, you know, it's a budgetary decision or it's an assessment made. Our members are the ones who feel vulnerable as a result of those decisions.

**JULIE-ANN BOND:** Very much so.

**The Hon. NATASHA MACLAREN-JONES:** Can I just clarify: If a young person has an NDIS package, should there not be someone coming into the school to assist? Is that not occurring?

**TROY WRIGHT:** The overlap with the NDIS is complicated. I struggle to understand it myself. It tends to be services that aren't related to education. It's additional extras like speech therapy or occupational therapy. Those people will come into schools. I'm not familiar—and happy to take it on notice—whether or not sometimes students with NDIS support funding come in to do that stuff. But my understanding is that that position exists in the Department of Education because it falls on Education while they're in education.

**The Hon. NATASHA MACLAREN-JONES:** The other question I had was in relation to your submission and it's in two parts. One is, on page 4 you've indicated:

The additional bureaucratic burden placed on schools to ensure all the relevant checks are made on those NDIS providers ...

I wanted to tease that out a bit more. When you say administrative burden, is that paperwork that's required or is it taking them away from teaching roles to assist the person that's coming in?

**TROY WRIGHT:** Thank you for that question because I appreciate that being pointed out. In addition to our members that are SLSOs, we have all the members that are school administration as well. They are the ones who say they have to pick up that burden. If a child is introduced into Education and they have an NDIS package and have a couple of external providers that are going to be providing services in the school, our members report that there's an inordinate amount of work that comes with that. There's an assessment for them of working with children checks, safety checks, all those sorts of onboarding processes because they're going to be in the school. In addition to that, there are also demands on the school about accommodation, facilities and all that sort of stuff. Suddenly the school moves from being just an educational setting because a child with NDIS funding has come in to almost an all-purpose therapy centre as well for that child. A lot of schools aren't equipped in an infrastructure sense to be able to accommodate that. So it's twofold. There's the demand on the actual physical building in the schools and also the demand on staff to coordinate those external providers coming through the school as well.

**The Hon. NATASHA MACLAREN-JONES:** In relation to your comments on page 2 around the term "inclusive education" and a suggestion that there needs to be a clearer definition, I'm mindful that in the New South Wales' education plan, disability hasn't been mentioned at all. I'm interested to know your concerns that you raise around the definition and, also, whether or not you think disability should be included in the education plan.

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**CORRECTED**

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**TROY WRIGHT:** Sorry, I'm just refreshing myself on that part of the submission. I apologise. I'm just wondering whether it was addressed in our recommendations. Can I take that on notice and report back to the Committee? Do you mind?

**The Hon. NATASHA MACLAREN-JONES:** That's fine.

**The CHAIR:** Can I ask for some clarification around your position on the move towards inclusive education, or at least a greater degree of inclusive education? What do you think would need to happen before we could get to that point?

**TROY WRIGHT:** I think, as we said in our opening comments, the overwhelming—and we have a large delegate structure. They are people from regional and remote settings right across New South Wales, and they are very united in the call, as I indicated earlier, to take a pause and have an assessment on where we're at. I think they feel that they have been part of a process that has moved very fast. There have been a lot of children integrated into mainstream support classes that would not ordinarily have happened. It's happened very fast. It's resulted in a lot of work for them, but they also feel it's a very dynamic space, and it probably needs a good looking at before further decisions are made.

We have members employed as well, obviously, in special purpose schools, so we have both sides of the fence. I don't think there's one answer among our delegate group as to which is preferable. What they do say is that choice is often a furphy. These special purpose schools are more often than not full and mainstream support classes are a parent's only option, whether they want it or not. I don't know if there's a combined decision about how we're travelling and whether there should be more or less children introduced to mainstream support classes. I think it's more of an issue that they're saying the pace of change has been rapid, as it probably should have been because we had a lot to do as a society as far as the treatment of people and children with disability. But right now they feel like there's a bit of catch-up to be done by the department in a policy sense, particularly in the areas we outlined.

**The Hon. MARK BUTTIGIEG:** When did your members start noticing the big tick up in the transition? What was the time frame?

**TROY WRIGHT:** I think it's particularly noticeable with those figures right through those—every year. It's a real trend that they've noticed; every single year there's been a trend that's increased. Do you have anything you can observe, Julie, in your discussions?

**JULIE-ANN BOND:** I don't think we could specifically pinpoint there's a particular year where all of a sudden there's been a high surge of children with disabilities into the Department of Education, but there's been a steady increase. As Mr Wright has said, what we see—and it's certainly our members' feedback—is the infrastructure hasn't kept pace, particularly when we're talking mainstream classrooms outside of the dedicated special needs and purpose-built classrooms. We have ageing infrastructures where I've got some case examples that just horrify me of what our teachers and our members are dealing with in support of children with a disability.

Equally within that, and as Mr Wright has said, the supports for both teachers and students, and certainly our members, the training has not kept pace but the needs of the children and their disabilities have increased. The complexity of those disabilities increased, placing greater demand.

We don't feel that there is adequate protection for our members. One of the opening questions with the previous member before yourselves was in regard to expulsion. Clearly, we have many members who are facing challenging issues with dealing with some children with some high-complex, both physical and mental, disabilities that not only impact upon that particular child but the whole setting of where that child is with school. And then the injuries, when Mr Wright has mentioned the workers compensation claims for 2021-22 have increased 34 per cent, that has to be taken into consideration. So I think—

**The Hon. MARK BUTTIGIEG:** To take up Natasha's point, it sounds like it's a function of the NDIS not keeping up with the move away from the home or the institutional setting into education, and the NDIS not appreciating that integration and that transition.

**TROY WRIGHT:** The supports, we understand, that are provided to a child with NDIS funding in education are nothing to do with education—they're top-ups. Like I said, they often put more of a demand on the school setting because you've got people coming and going and interfacing, and in and out. And then actually assisting the educational stuff, that still falls wholly and solely on the department. And, yes, there is enormous pressure there where children are coming in with—not just the number of children, the complexity of needs. That's what our members mean; let's just take a breath.

**The Hon. MARK BUTTIGIEG:** Has there been a formal dialogue between the department and the union on this issue?

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**CORRECTED**

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**TROY WRIGHT:** All the time—relentlessly. I can't say we've had satisfaction, particularly on the position description issue and the amount of training someone should receive for the SHS issue I outlined. We're still pushing that. We've been in negotiations about that for years. But we are constantly talking to the department about these issues.

**The Hon. SARAH MITCHELL:** Natasha covered the areas that I wanted to, so I'm good. Thank you to the witnesses, and for your submission.

**The Hon. MARK BUTTIGIEG:** In a nutshell it sounds like there is—cost-shifting is too strong a word, but it's like the department has had to deal with this new view of the world, which is totally understandable as you pointed out. Society has moved on, which is a good thing. But, clearly, the funding mechanism has to be looked at. You would have thought that the NDIS was the logical answer, but I guess that's a conversation the Minister probably has to have with her Federal counterparts.

**TROY WRIGHT:** I think the industrial landscape is a demonstration of that thinking. Up until this year, when permanency was finally granted to our members, we had an untenable situation where the department said, "You might be attached as an SLSO to one child with disability. That child is going to graduate one day, so therefore we can never make you permanent." Common sense tells you there will always be another child with disability moving into the system at some point and there is going to be ongoing work. We had a real workforce crisis as a result of that short-sightedness about attaching workers to individuals rather than going, "We need a pool of people that are SLSOs that are trained and qualified and can work among children and different children", rather than go, "Mr Buttigieg, you're attached to Joe, and when Joe graduates, you're out."

I would go to conferences, and we had people that were all 10, 15, 20 years, term-by-term engagements. What does that do to the psyche of the workforce? They cease feeling professional. They are temporary caregivers—and they're not. These people are very professional. Having worked and met with many of them and had the pleasure of representing them, they are very, very qualified individuals, passionate about their work and very good at their work. The permanency move has been gratefully received by them because it acknowledges them in that way. And that's part of the thinking the department needs to be engaged on—that this is going to be an ongoing role for the department. It's not something you dip in and dip out of.

**JULIE-ANN BOND:** True. And if I may, Mr Buttigieg, and I think Mr Wright has touched on it very well there, the security and the conversion that was achieved on the 8,000 of our members that were converted just recently—for Christmas 2023, many of those went in with certainty coming into 2024 term 1—was hugely welcomed. Equally, within that, our members in the SLSOs, as Mr Wright has mentioned, those that are doing the plans in taking on new providers that are coming in and making sure that all those compliance checks—you know, not having somebody come onto school campus that shouldn't be there. Every one of those, from front gate to our general assistants who support children across the classroom network, are dedicated. They are professional; they should be given that recognition. But, equally, the comments from the previous panel member—they are exhausted. They know that there are things that can be done to support and provide better care, but we simply don't have those resources or a true willingness to sit down and sort these issues out.

When we are speaking to the issue of the student health support, that is very, very complex care. I dealt with that in my previous role in home care and I know how complex and how challenging taking on that care of a child, let alone an adult, is. So the care and trust that they give to those students, they give to those parents, cannot be undervalued. We certainly thank you for being able to highlight what our members do every day of the school term in support of having children being included, to have an education, to go out and perform as we do in society. It is just so invaluable and can't be taken away, as to the value and their worth.

**The CHAIR:** Thank you. Unfortunately, that is all that we have time for. This has been an incredibly valuable session. Thank you very much and thank you for your submission. To the extent there are supplementary questions or questions taken on notice, we will be in touch. That concludes this particular session. We will be back with our final panel of witnesses.

**(The witnesses withdrew.)**

**(Short adjournment)**

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**Dr CHERRY BAYLOSIS**, Policy and Communications Lead, Disability Advocacy NSW, before the Committee via videoconference, affirmed and examined

**Ms NADINE MOORE**, Advisory Committee member, Disability Advocacy NSW, before the Committee via videoconference, affirmed and examined

**The CHAIR:** I now welcome our next witnesses, who are joining us via Webex today. Thank you very much to both of you both for your submission and for attending today. Do you have a short opening statement that you'd like to make?

**CHERRY BAYLOSIS:** We do. May I ask that both of us have an opportunity to do an opening statement? They're both quite brief.

**The CHAIR:** Yes, no worries.

**CHERRY BAYLOSIS:** Thank you for the opportunity to speak today. Disability Advocacy, henceforth described as DA, provides individual advocacy to two-thirds of New South Wales, making it the largest individual advocacy provider in the State. We provide individual advocacy to anyone experiencing unfair treatment within service systems and, as part of this, we work with families and students who are experiencing unfair treatment within the education system. Our systemic advocacy draws on this coalface information and we consult with parents, advocates, teachers, principals and education staff and the sector more broadly. In 2022 we published the report on education entitled *Falling behind: A need for inclusive education*, which is co-authored with Family Advocacy. This report highlights barriers and issues with attempting to gain inclusive education through adjustments.

What this report and what we have found consistently in our advocacy work is students with a disability in the education system are often let down. The reason for this is because there is a lack of resources. Often it stems from a lack of time for education staff, a lack of financial resources, sometimes skills and training, and sometimes just a lack of willingness from education staff to provide reasonable adjustments. Consequently, we see that many students are unfairly excluded from mainstream settings. We know that research points to students with disability being over-represented in suspensions and expulsions. We see the use of restrictive practices, exclusion and seclusion, and we also see enforced part-time attendance and we also see a lack of meaningful adjustments, which does not lead to meaningful participation in classroom settings, which Nadine will speak to shortly.

It is a system, in our view, that is buckling under pressure. I echo the words of Mr Troy Wright, the witness who gave evidence prior to this panel. For the reasons that I've just described, many parents see a value in having specialised schooling, particularly those with high and complex needs. While we believe in and support inclusive education, let's get these issues that we're seeing addressed first before we abolish choice. This means eliminating and reducing suspensions and expulsions where possible. It means reducing restrictive practices. It also means asking schools to provide reports and data on educational outcomes and also addressing the teacher shortage that we're seeing at the moment and the lack of resources. Only when these issues are fully realised can we consider moving towards the phasing out of segregated and special schools.

**NADINE MOORE:** Among my many hats, I'm a mother to three wonderful children. My eldest son, Liam, is 18 years old and finished formal education in year 12 at the end of last year in 2023. Liam has had a brain injury from birth, requiring many brain and spine surgeries and long hospitalisations. Liam's disability affects both his intellectual and physical function, and he requires assistance in most aspects of daily life. Because of the nature of Liam's disabilities, we found navigating the education system extremely difficult, especially in our regional area. Liam attended both private and public schools in an effort to best accommodate his additional needs.

We were lucky as a family that we had the resources to do this as many families don't—though now, at the end of Liam's 12 years of schooling, I can quite categorically say that I don't believe Liam actually received an education at all, despite my best and continued efforts to make this happen for him. I think I feel, like most parents of children with a disability, that I failed to give my child an education, a right that is afforded to his siblings who don't have a disability. Currently, the disability standards in education, in conjunction with the legislation and the Act, are word perfect. The policies and procedures outline read beautifully on paper but fail to deliver on the ground for students with a disability in a monumental way.

Each school does disability differently and most that I've experienced do it very badly. There is no consistency across schools and educational facilities and no oversight as such. As the carer of a child who most would consider easy in terms of his disability, meaning the level of adjustments needed is just superficial, I fought for my son to be included in mainstream education for 10 years. My son was finally given an aide and admitted to mainstream full-time in year 11 at high school, where he thrived and achieved way beyond what his teachers

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ever thought possible given his level of disability. This was the first year in all his schooling that Liam was given age- and curriculum-specific work. Prior to this in the support unit, Liam completed work equivalent to a third and fourth grader, because group class work was tailored to the child in the class with the least ability.

For those that aren't aware, support units include children from year 7 to year 12, encompassing ages from 11 to 18 years, making content- and age-specific learning extremely difficult. My 16-year-old son was given Disney's *The Lion King* movie to watch—the animation—and talk about when Liam can read and was more than capable of reading the appropriate year 10 New South Wales English curriculum novel. It is with huge sadness that I reflect on 12 years of my son's education and all the opportunities my son missed out on as a child with disabilities—so different from experiences my non-disabled children are currently having at their school because education is a lot more than just learning the curriculum. Liam never went on a school camp, never participated in a drama or art exhibition, was never included in career expos or work experience, didn't have friends or friendship supports, was made to sit out of assemblies and school communities and group activities.

One teacher's idea of reasonable adjustment in a multimedia class was to send Liam out of the classroom for six weeks to complete the project on his own, all the while marking him technically present in his class. Like so many schoolteacher decisions made around reasonable adjustment, this only set my son up for failure and further isolation when he couldn't complete the task without direct support. Sadly, I'm not alone in this educational struggle with my child with disabilities. The level of suspensions and expulsions for kids with disabilities; the definition and interpretation around reasonable adjustments; the demarcation of educational responsibilities versus private, medical and NDIS responsibilities; the lack of support and consultation with parents; and the lack of governance oversight within the Department of Education around disability is truly alarming.

Whilst I'm sure that everyone has the best intentions for all kids attending school—to learn and to be included, that is—my experience within the DOE with kids with disabilities and their parents has been one of severe distress, unfairness, inflexibility and harm. Whilst as a parent I am really heartened by the recent findings in the disability royal commission regarding inclusive education, I'm also concerned that the enormous steps required to phasing out SSPs, schools for specific purposes, and support units be done in an appropriate, inclusive and consultative way. I fundamentally believe that these steps will require huge systemic change at all levels of society around what we view as an educational environment for our kids moving forward, and this is regardless of disability because education will look different for every child, and should. At the moment our current system is lacking this capacity. We need to get inclusion and education or inclusive education as it stands now on a more even footing before we can even begin to look at making these bigger leaps. Thank you for your time.

**The Hon. SARAH MITCHELL:** Thank you both for appearing and also for the submission. I might just start with you, Ms Moore. Thank you for telling us about Liam and your experience. I don't think there would be anyone better placed to tell us about improvements. My question picks up a little bit what was in the submission so, Dr Baylous, if you want to comment as well, that's fine. One thing I noticed was that you talked particularly about reasonable adjustments and the complaint mechanism process within DOE and that it is all quite circular in terms of how that works. Obviously, don't share anything personally that you're not comfortable with, but as a parent advocate, where do you see improvements in that space that need to be made? If you were in charge and you could change something immediately, what would you pick as the main priority?

**NADINE MOORE:** I actually think that parents need support. Parents need support before it becomes a catastrophe, and that's typically what happens. What's been outlined in the report that Cherry worked on—and I'm sure by 100 other people—is the circular argument that goes around and around when you put in a complaint with the Department of Education. You can complain in two ways. You can put in a complaint online or you can ring and make a complaint. If you put in a complaint online, at least your complaint is actually registered and it actually has a file number. If you just ring or write to the school, there's no evidence that you've actually made a complaint.

That complaint then goes to the district office and the district office send it straight back to the people that you are actually complaining about. There is no way of getting around that. It just goes around and around and around in a loop. There's no independent oversight. There's no independent person that can actually say, "Hey, can you look at this complaint? It's valid. What this parent has to say is valid." We don't have a say in the education of our children or what they consider reasonable adjustments or EPs. As I said in my speech, in my regional area, I found that schools do it very differently. There's no consistency across the schools about how they handle children with a disability. Some do little bits and pieces of it, other people don't do it at all and some people do it quite well. But the complaints process is the same.

**The Hon. SARAH MITCHELL:** We've heard other evidence about that inconsistency this morning. A lot depends on individual educators and principals and then a family's experience can be vastly different. Maybe this is a question for you, Dr Baylous. You called out some sort of independent process around complaints. It's fine if you haven't, but have you given any thought to where you think that role should be placed? Should it cover

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all school sectors? I'm just trying to think about how it could function in practice if we were to make a recommendation along those lines.

**CHERRY BAYLOSIS:** I might offer perspective here. I think before it even escalates to the need to look outside of the school, a practical step could be involving an advocacy organisation as soon as there is a dispute. Often what our advocates find is that, in those initial phases, before conflict becomes unmanageable and very difficult to resolve and people or both parties become quite steadfast in their positions, having an advocate step in to support parents—as Nadine pointed out, support for parents is really important to assist them in communicating their needs with the school—can be immensely useful. If that is not resolved, then an independent body outside of the Department of Education would be useful so it's not the Department of Education investigating itself. Certainly, at the director level, that could also be looked at as well. We often find that directors have usually a close working relationship with the principals in their area as well, so it's quite hard to get a meaningful resolution—for parents, that is—when they do follow that complaints mechanism.

**The Hon. SARAH MITCHELL:** This question segues into when you were talking about that involvement of advocacy organisations at an earlier stage. Your submission was very strong in terms of preventing the high rate of suspensions and expulsions that we see and that over-representation particularly for students with disability. Do you think that there's somewhere in that space for better advocacy, whether it's with external organisations? Obviously, there have been some changes recently to the policies. I certainly have parent advocacy groups reach out to me concerned about what the impact of that will be. But do you think that there is maybe a gap there in terms of having better advocacy for those students and those families before it reaches a disciplinary approach?

**CHERRY BAYLOSIS:** Can you define what you mean by "better advocacy"?

**The Hon. SARAH MITCHELL:** Do you think there's a gap? Again, it's very individual. Certainly, some of the feedback that I've had from families is that there's an over-representation of students who have disability and the suspension and expulsion statistics. I think your submission called out a young person who had been suspended I think it was seven times. I'm just wondering, is it that parents feel that there's a gap in terms of putting their case forward on behalf of their child? Is there a bit in terms of schools needing the resources and how they manage students who do have behavioural challenges? I know that it's complex, but is there a gap that you see in terms of department staff or parent advocates or someone who can help with those situations before they escalate?

**CHERRY BAYLOSIS:** I think there's perhaps a differentiation here between the parent providing advocacy and then professional advocacy. What we find is that there's a communication breakdown. Understandably so, parents are often immensely frustrated and upset and that can create tensions and it can certainly contribute to conflict escalating, where education staff who are stressed need to try to communicate with a parent who is also distressed. That can just make communication between both parties—it can create a barrier between both parties.

Having a professional advocate step in to support that parent communicate and to advocate for their child's needs and to also support the school in understanding what they could be doing is useful as well. I think just having an advocate to speak with and support that communication process can be really useful. What we often find, however, is that parents often are not sure that they can reach out to advocacy organisations and often schools don't know either. We're certainly doing a bit of work in our regions to promote advocacy. What we're finding is that schools often have a misperception of advocates coming in and being adversarial as well. There are a few barriers that can prevent advocacy from happening. One is a lack of knowledge and a lack of referral. If we can overcome those barriers and have advocacy in those initial phases, it could be quite useful.

**The Hon. SARAH MITCHELL:** Did you want to add anything, Ms Moore? It's fine if not.

**NADINE MOORE:** Yes, I think I would. My son's been suspended from school twice. He has never had behavioural issues at all. He was suspended for what I consider a disability-related issue: He touched his teacher on the cheek, and obviously the rule is that there can't be any body contact at all. He moved his teacher's—his aide's—head towards him and said to her, "You're not listening to me." Then he was taken out of the class, suspended, and grilled without anybody with him. He was scared and frightened. When I met up with him in the afternoon he said to me, "They told me I assaulted a teacher." I fought that suspension because he doesn't have a history of ever being violent or ever touching anybody. It was pure frustration at him being in a position where his needs just weren't being met and hadn't been set up properly, even though I'd gone to, I felt, extreme lengths to make sure that that had happened.

I always felt with Liam that the teachers—I don't think there's any understanding of disability behaviour and there's just no empathy, I guess, for people's levels of frustration and anxiety, and what that actually looks like in a person with a disability. I found the whole process just ridiculous. You know, they wanted him—a child

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with a receptive and expressive language disorder and an intellectual disability—to sign this huge contract and talk about his behaviour. He didn't know what he'd done wrong. All he knew was that he'd been told that he assaulted a woman, and that wasn't okay with me. The school didn't call me before they interviewed him. To me, that also wasn't appropriate, because then he agreed—he actually signed a document to say that he had assaulted a teacher, because they told him to.

There was no support for Liam as a kid with a disability in that process, and there was no support for me coming in at the end of it to try and fix it and not make it such a big deal for him—because he was devastated. He didn't understand what he had done. Look, I get that teachers aren't necessarily trained in disability, but that was, to me, such a minor thing that was totally because of his disability. He wouldn't have done that if he was a neurotypical child. It's a blanket rule: If you touch somebody, you hit somebody or you strike somebody, it's an automatic suspension. There's no leeway or room there at all. That goes on his record. That affects his assisted transport. It affects further government funding for him when he's in group situations. It has longer term effects. I don't think people realise that.

**The CHAIR:** One of the things that you bring out in your submission is this—I guess we've heard a lot about it already today, but there appears to be some teachers and some schools who are just brilliant. I know myself, being within the disability community, there are particular schools that are identified as just being really great if you can get your kids into them, if they're a child with disability, and then there are other experiences where even the most benign, reasonable adjustment is refused. You say at the top of page 6 of your submission that there are some schools that refuse to provide adjustments. You say:

Research indicates that it is the teaching staff and culture within the given school that can largely determine ...

Can you give me a bit more explanation as to what sort of cultural features you're seeing in those schools that aren't providing adjustments? Is there more than you can tell us about that?

**CHERRY BAYLOSIS:** Sure, yes. In terms of culture, it is often the implicit values, which can be hard to pinpoint. But it's shown through the willingness of the teaching staff. Often it's mainly influenced by the principal and deputy principal. There is a fair bit of enabling, in terms of our current systems, that allows a level of discernment around what is reasonable or what's perceived as reasonable. If a principal does not understand disability—and, in particular, we see this with invisible disability, such as psychosocial disability—there is a risk that challenging behaviours are misunderstood as "naughty" behaviours instead of being symptomatic of a disability or distress. Then it's managed from a more punitive disciplinary action rather than a willingness to integrate supports. Again, we believe—and what research points to—that it is because of the biases that exist within educational staff.

**The CHAIR:** What can we do proactively to address that, then? We talk a lot about—and I think you made this point as well—that obviously we need greater resources in the school system. But is there some immediate step we could take now that could relieve some of that from those schools that have the resources but are still not providing the adjustments?

**CHERRY BAYLOSIS:** At the very least, as a minor step forward, minimum training in disability and trauma-informed training as well, while also noting the diversity and breadth of disability, having a basic understanding that often behaviours can be symptomatic of distress or discomfort and not all students and children learn the same way. The current system that we have really is quite rigid in catering to the different types of styles of learning of students, particularly those with disability. Nadine can speak to an example of her son, who needs to move around when he's studying. It can often look like he's distracted—sorry, Nadine, I'll let you speak to this.

**NADINE MOORE:** No, that's all right.

**CHERRY BAYLOSIS:** But that's a good example of the school not understanding what that behaviour was. Nadine, I'll let you take over at this point.

**NADINE MOORE:** As I said, my son has a brain injury. One of the ways that Liam actually learns is he has to be moving. That's also very common with kids with ASD. He looks like he's not taking anything in and he may have to pace up and down the back of the school. What I actually did was I bought rubber bands for the back of his chair so he could actually move his legs up and down without actually leaving his chair—but, once again, I had to instigate that. The teacher would say, "He's not listening. He should go out." I said to him, to these teachers, "When he's actually sitting there looking like he's paying attention, that's when he's not listening. You ask him a question while he's pacing to see if he's learning." They were actually really stunned about that.

I think it's one of those situations where the parents actually know their children best. The changes that I have seen in our regional area, Cherry, with systemic change in the school have actually begun with parents just like myself going in and really making an effort with teachers to say, "This doesn't have to be so hard and so scary."

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We all want the same thing. We're all on the same side. We all just want good outcomes for our children. Let us help you. Let us tell you what our children need." That generally doesn't happen at all in schools.

For 12 years I stood on the sidelines going, "Pick me! Pick me! I want to help you. Who can I pay? What can I do? What can I organise?" Nobody ever took me up on anything. It's not like we're trying to tell teachers how to do their jobs. We're trying to make their job easier. The flow-on from that is that everyone has a better time. The mainstream kids learn better when there's not as many distractions with kids with disabilities, and then the kids with disabilities feel more included in their school environment. It's a win-win situation.

**CHERRY BAYLOSIS:** May I just add, from hearing Nadine speak, that family, parents and people with disability are immensely resourceful, just hearing of her example. Back to the question that was being asked about what are some additional measures that could be implemented in the short term, perhaps ensuring that parents are better consulted and that that is a prerequisite for schools or a guideline that schools really follow—to meet with parents regularly, not just about their child, as well, but perhaps as a collective to talk about some of the very simple measures, like in Nadine's instance, that could be integrated to make classroom life easier for both the student and teachers.

**The CHAIR:** From the previous evidence we heard, it looks as though there's a structural problem where there's general agreement that, ultimately, everyone would be better served by an integration model, obviously nuanced in a sort of a horses for courses approach. There seems to be general agreement that integration is a good thing, but government hasn't really caught up with the implications of that. Because it's still largely a function of the education system or the department's responsibility, a whole-of-government approach hasn't been brought to bear on this, so that the Department of Health is not really looking at it at a State level and the NDIS is not really catered for it at a Federal level. Would that be a fair enough summary of the long-term structural problem, from your perspective?

**CHERRY BAYLOSIS:** I'm not sure I can confidently answer it with that summary. I think it's a lot more complex and nuanced. I think, as Nadine has pointed out and as our submission highlights, this is a significant reform. Certainly, looking at the interplay with other service systems, Health and the NDIS are needed. Alongside that, there are other issues that we need to address. I mentioned earlier on the teacher shortage. There is a teacher crisis, and we know that university enrolments are down in teaching degrees.

On top of that, specialist disability education teaching staff as well, there is a shortage there. Looking at the systemic issues, particularly for families in regional, rural and remote areas, and the barriers that students have with accessing school in those areas as well. Also, just thinking through what other witnesses have said today, the lack of resources in the education system really needs to be addressed. Where that exists, I can't say, but what most of us would agree is that those service systems that we've pointed to—the NDIS, Health and Education—need to work cohesively if this is going to work.

**The CHAIR:** Given your broader jurisdictional overview, are there any jurisdictions in Australia that do this better—that provide a more inclusive education system that we could take guidance from?

**CHERRY BAYLOSIS:** I'm sorry, I'm not familiar enough to point to another jurisdiction to confidently answer that question.

**The CHAIR:** That's okay, I thought I'd give it a try. It's completely okay. I think that probably brings us to an end. I will just ask if there's anything else from your submission or from your opening statement that you'd like us to know.

**The Hon. SARAH MITCHELL:** I have one more, Chair—maybe two, depending on time. [Inaudible].

**The CHAIR:** We seem to be having internet issues. Do you want to try turning off your camera, Sarah, and just using voice? See if that helps.

**The Hon. SARAH MITCHELL:** That's fine. Don't worry about it; I'll just put them on notice.

**The CHAIR:** Alright, no worries. Was there anything else that you think that we should have highlighted?

**The Hon. SARAH MITCHELL:** Is that better? I have done that, sorry. If you can't hear me I can leave it. It's fine, Chair.

**The CHAIR:** I think there's also a delay.

**The Hon. SARAH MITCHELL:** I just wanted to ask about education outcomes, but I can leave it if my technology isn't working.

**The CHAIR:** You've just got a very—

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**The Hon. SARAH MITCHELL:** We'll just leave it.

**The CHAIR:** It's a very uncomfortable delay. On that basis, then, that probably brings us to an end for today's session. I'm sorry, I did ask you the question before and I'm not sure that you got a chance to answer it. Was there anything else that you wanted to raise?

**CHERRY BAYLOSIS:** No, I covered everything that I'd like to speak about. Nadine?

**NADINE MOORE:** I think the only thing that I would probably say is that I really believe that we need to look at education as an environment rather than as just a curriculum. I'm not sure how all of this is going to look in 20 or 30 years, or 40 or 50 years, but there are so many issues around inclusive education. I think that actually begins with a definition of what education is. As a society, I think we need to, because education looks different for everybody, especially with kids with disabilities. I would like to see a broader brush with education, rather than just a curriculum, moving forward.

**CHERRY BAYLOSIS:** May I just—I have a few thoughts that I'd like to share as well before we conclude.

**The CHAIR:** Go ahead.

**CHERRY BAYLOSIS:** There is a saying in the policy world that a policy is only as effective as its implementation. If we are going to move towards an integrated approach then we just need to ensure that these issues that have been highlighted throughout today's inquiry are addressed, because there are concerns that hastily implemented policy will amplify the issues that we're currently seeing and will leave families and students with disability without a choice.

**The CHAIR:** I think that's an excellent note, and I can't help asking one more question on that. There are those who are advocating for the Government to set a date for ending segregated education and moving towards inclusive education in order to then incentivise the process of getting to that point. Do you think that we are at a point where we can make such a plan, or are things still in need of such significant resources and a bit of time to allow more teachers to come on, and all the rest of it, before we could actually plot out a proper plan? What's your thought on that?

**CHERRY BAYLOSIS:** There are two streams of thought here. It's interesting—when Family Advocacy and Disability Advocacy co-authored that report, we didn't agree on the closure of segregated schooling. We thought, "How do we negotiate this?" Ultimately, we hope that the New South Wales Government and the Australian Government will consult, just like today. To answer your question, there are two streams of thought here. One is that if you keep on building segregated schooling, it's a disincentive, and exclusion and a lack of participation will continue. The other school of thought, which is where we are positioned, is that this may lead to further exclusion because what we're seeing at the moment isn't working.

We're seeing a broken system that is buckling under pressure. Even though there is legislation in place, schools are really struggling to even meet this. While we can have stages to incentivise, let's make sure that we take a measured, conscious approach before moving into the next phase—because, as we mentioned before, some schools are doing it really well; some schools aren't. If we put in time-bound pressures, that can amplify issues with those schools that aren't doing so well. Let's create the time and space needed to create a good standard—a better than good standard, actually—across the education system first.

**The CHAIR:** That brings us to the end of our session. Thank you so much for your attendance. This has been a very useful session. The secretariat will be in touch in relation to questions, supplementary questions and the time frame to provide answers, but that concludes our hearing for today. I give a special thanks to our Auslan interpreters, who have been doing a fantastic job for us today. Thank you very much.

**(The witnesses withdrew.)**

**The Committee adjourned at 16:30.**