



Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

Submission No.2: Response to Education and Learning Issues Paper

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Acknowledgement:

Family Advocacy would like to acknowledge the traditional custodians of the lands on which this report has been written, reviewed and produced, whose cultures and customs have nurtured and continue to nurture this land since the Dreamtime. We pay our respects to their Elders past, present and future. This is, was and always will be Aboriginal land.

Introduction

Over the last 28 years, Family Advocacy has heard from the families of children with disability across NSW about violence, neglect, and abuse in the education setting. Our calls have doubled over the last five years.

As we have recommended in our Submission No.1 – Inclusive Education, to the Royal Commission, in order to prevent abuse, neglect, violence, and exploitation of children with disability in Australian schools, **all** students need to be learning in the same classroom together, with authentic inclusion in the three domains – physical, social and curricular. Inclusive education provides a natural safeguard. This is in line with the commissions assertion that their ‘starting point is the CRPD’.

For this to happen, we need to overcome the barriers to inclusion. Whilst a segregated option for children with disability exists, mainstream schools will keep sending them there. We need to combat the culture and legislative framework that supports segregation, gradually phase out the segregated system currently in place, whilst at the same time create and support an inclusive culture, provide greater clarity in the legislation and policy for more accountability, and instill good quality ongoing teacher training.

By removing these barriers, all students will have the same opportunity to reach their full potential in order that they may participate in and contribute towards the economy and the community. With this appreciation within our education system, we can produce positive outcomes for all children with disability which will ultimately lead to a safer world for them.

For the sake of completeness, Family Advocacy provides Submission No.2 to the Royal Commission specifically answering the questions posed on Section 3 of the Education and Learning Issues Paper. We appreciate the opportunity to be able to provide input on behalf of people with developmental disability and their families to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (hereinafter “the Commission”) in the education setting.

Our comments and recommendations are premised on nearly three decades of experience working with families in the education system in New South Wales, collaborating with the Department of Education, and our widespread knowledge of international research in the field of inclusive education.

For this reason, Family Advocacy would welcome the opportunity to provide evidence when there is another hearing date issued in relation to education as well as facilitate the process for families to give evidence. Due to the size and complexities of the NSW education system, we strongly recommend a hearing in NSW is an essential step for the Commission to gather evidence on the significant issues of abuse, neglect and exploitation of students with disability across NSW schools.

Section 3.1 Violence, abuse, neglect and exploitation

1. Are particular forms of violence, abuse, neglect or exploitation more **prevalent** in education and learning environments?

The more prevalent forms in education and learning environments are gatekeeping, partial enrolments, micro exclusions, suspensions, exclusions from incursions and excursions, and restrictive practices.

2. Does the **extent or nature** of violence, abuse, neglect or exploitation of people with disability **vary** between:

- a. Stages of education and learning (i.e. early childhood, primary, secondary, tertiary, further education)?

Gatekeeping is prevalent at all stages of education and learning. However, the most influential stage in Early Childhood or Primary School as once a student is segregated in a “special” setting or “support unit”, it is rare that they will move to an inclusive setting. The diagram below shows the natural pathways of childhood and the impact of an ordinary pathway versus a segregated pathway. Every step taken down the segregated pathway is a step away from the ordinary world. As you can see, the Ordinary Life is what most of us would expect in Australia. No matter our differences, we all want to belong. It is a universal need. Belonging comes through being included at your local school with your neighbourhood friends, having a job or owning a business, a place to call home, and a valued place in the community amongst friends and family. It is the same for a person with a disability, they just need some support (both paid and unpaid), to enable this to happen.

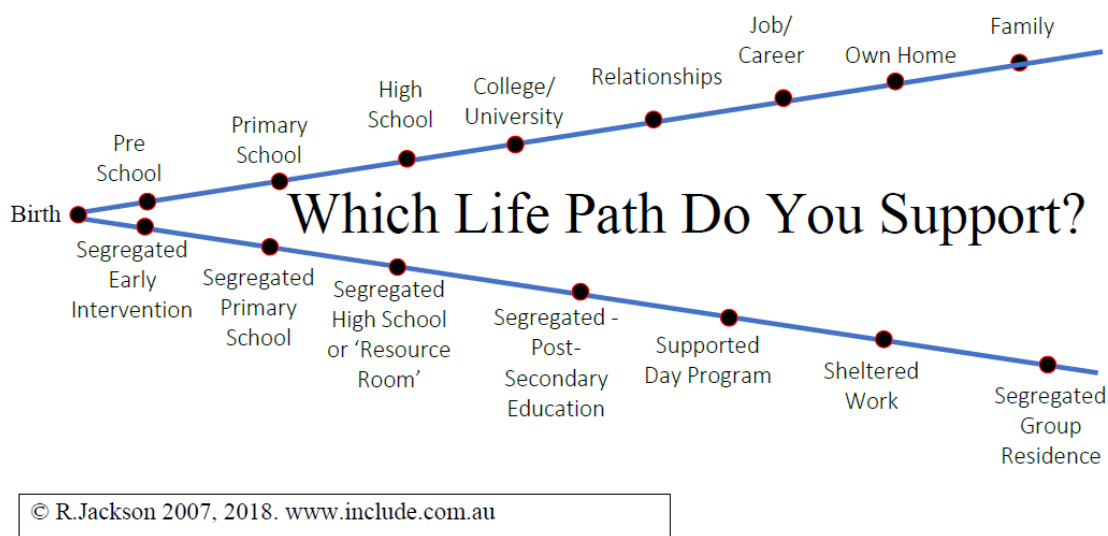
A byproduct of this “ordinary path” are the socially valued roles that follow. For example, being a student in the regular class at the school, an employee, a flatmate, a friend, a community club member. When we have these valued roles, freely given relationships follow and with that, comes a natural safeguarding from violence, abuse, neglect and exploitation. Generally speaking, people with these valued roles are safer by the simple fact they are physically “seen” in the community (not hidden away in institutions or segregated settings and programs), and metaphorically “seen” as “one of us”. People with disability that have valued roles are treated more favourably by individuals and groups. Family Advocacy has produced a booklet, through its initiative Resourcing Inclusive Communities, called Life Long Learners (2019) to illustrate these socially valued roles. We can provide a hard copy or to view the booklet online, go to <https://www.ric.org.au/assets/Uploads/resources/1574141eb1/lifelong-learners-booklet.pdf>.

For many people with developmental disability, due to the historical practice of being placed on a segregated path, these valued roles are out of reach. As one family member noted, “the further you travel down the segregated path, the harder it is to come back to being part of the community”. We cannot underestimate the damage that can be done due to subconscious devaluation. When children are excluded from regular class, we set them up on a path of being “othered” and “done to” in all areas of their life. In short, they are seen as different and often are

not afforded many of the things most Australians take for granted. Accordingly, the inherent existence of devaluation means that vulnerability is heightened and safety is compromised.

Our current campaign aimed at education reform, “Same Classroom Same Opportunity”, is the result of the overwhelming reports by families experiencing many barriers from schools such as gatekeeping, both subtly and not so subtly, forcing them to go to support units or special schools (neglect), low expectations and lack of reasonable adjustments (neglect), increasing use of suspensions due to lack of support (abuse) and restrictive practices in schools (violence and abuse). Each of these areas were explored in detail in our Submission No.1.

The campaign is being led by families across NSW who are wanting to see change to the many barriers and inequities that their children with disability currently experience within the education system at primary and high school, which are in conflict with the United Nations Convention of the Rights of Persons with Disability (UNCRPD). Our work and the work of the Commission is to reduce these barriers and this is why inclusive education is vital, as it provides a natural layer of protection from violence, abuse, neglect and exploitation.



From: Following the Natural Paths of Childhood, by Dr Bob Jackson, Thinking about.... School Inclusion, Issue 12, July 2012

b. Settings of education and learning (i.e. inclusive, integrated or segregated)?

On the basis of the calls we receive, violence, abuse, neglect and exploitation are prevalent in all settings.

Inclusive setting (meaning the regular class in a mainstream school) – we hear of children and their families being subject to gatekeeping, partial enrolments, suspension/expulsions (often due

to the child's individual needs not being met and then a situation escalating), being excluded from incursions/excursions, and restrictive practices (from physical to chemical, such as only allowing a child to attend if their child takes medication).

Integrated setting (meaning the support unit or support class) – gatekeeping can occur when a child is in a support unit and the family wants their child to be more included in the regular class and incursions/excursions and this is not supported by the teacher or principal or in some cases, the counsellor.

Segregated setting (meaning School for specific purpose or special) – gatekeeping occurs when a family want their child to leave a segregated setting to be included in a regular class in a mainstream setting.

c. States or Territories?

Based on our connections with other organisations around Australia and our part in the Australian Coalition for Inclusive Education, we understand there to be a similar issues consistent across all States and Territories. There may be some variation as to how each State is attempting to move forward.

d. Government, Catholic or Independent education systems?

In our experience, we hear the same stories in relation to violence, abuse, neglect across all sectors but the vast majority are in relation to government schools. In our experience family's share that on enrolment into Catholic and Independent school's denial of enrolment is more prevalent and the discrimination subtler. In these systems there is more discretion to include or exclude any child including students with disability.

e. Taking an **intersectional approach**, how do the specific experiences of violence, abuse, neglect and exploitation vary amongst students in education and learning environments?

Families from CALD and Indigenous backgrounds are at more of a disadvantage due, not only to the language and cultural barriers but also potential reduced understanding of the legislation, processes, practice and how and where to seek support.

f. What are some of the **underlying causes** of the issues and barriers (outlined in Section 2)? How do these issues and barriers **link to** or **influence** the experiences of violence, abuse, neglect or exploitation by people with disability in education and learning environments?

Underlying causes of barriers:

2.1 Access to education and learning

- A segregative culture and ableist mindsets across all education settings – seeing the child as having deficits and needing to be remedied rather than a strengths based approach resulting in low expectations. Ableism continues in our society, subconsciously or consciously.
- Lack of a national action plan for inclusive education.
- Lack of investment in equity. Not prioritizing professional development. Workforce capability issues. Lack of competence and confidence of teacher/principal.
- A legislative framework that is not well known, not implemented or enforced.
- Poor complaints process. No independent body for oversight.
- Poor collection of data regarding enrolment rejections, educational attainment/completion, suspension/expulsion rates, and use of restrictive practices.
- The right of the child taking a back seat to the right of the parent.
- Parent choice being used as an excuse by our governments' inaction to plan and invest in inclusive education.

2.2 Appropriateness and adaptability of education and learning

- Lack of reasonable adjustments – lack of competence, confidence, misunderstanding or lack of knowledge of the legal obligations of the school staff, teachers, principal, counsellor, student wellbeing officer, lack of parent/teacher/student collaboration.
- Lack of individualised supports – lack of collaboration between teacher/parent/student, lack of acceptance and understanding of individual student's needs, ableist mindsets which continue to be prevalent despite the legislative frameworks in place.
- Inflexible curricula – Teachers are only ever taught the curriculum but they are not taught how to make adjustments for individual student's needs.
- Workforce capability issues – lack of preparation the tertiary level; lack of allocating appropriate funds to allow a teacher to be upskilled and have ongoing support; Lack of resourcing to allow collaboration with parents/student to be proactive and continually reflect on the student's progress.
- Behaviour management – either behaviour plans do not exist for the child or if they do, they have a cookie cutter approach and are not individualised or implemented, or they are purely punitive and not encouraging positive behaviour. A common approach is behaviour being identified as the student being at fault and needing to change rather than the student having appropriate support and adjustments.

How these barriers link to or influence the experiences of violence, abuse, neglect or exploitation by people with disability in education and learning environments:

These barriers exclude, marginalise, devalue, and isolate the student as well as the family. There are costs to the student with disability, the family and the broader Australian community. These are not limited to financial costs but are many and varied: social, developmental, intellectual and emotional. By failing to properly educate students with disability in their school years, Australia is setting up these students for a lifetime of disadvantage, unemployment, low levels of mental and physical health, social isolation and ongoing welfare dependency.

Many families have reported incurring substantial and ongoing costs, as well as a substantial drop in their total household income (often due to partial enrolments or homeschooling) as a consequence of their efforts to improve access to education. This results in financial hardship.

Not surprisingly, the battle to improve their child's access to education takes an emotional toll on the family and their child. A further consequence of the emotional stress is ill health, which also costs society elsewhere in the system. A more thorough explanation is outlined in the 2015 Senate Inquiry named Access to Real Learning: the impact of policy, funding and culture on students with disability.

- g. What measures and mechanisms **prevent** violence, abuse, exploitation and neglect of students with disability in education and learning environments? What role does or could inclusive education play in preventing violence, abuse, neglect and exploitation in society?

Inclusion provides better outcomes and provides a natural safeguard to students with disability.

Better academic and social outcomes for all children

Both international and Australian research shows that **children with disability do better on all measures in inclusive settings, rather than disability-specific settings** (Jackson, 2008). In 2008, a rigorous peer reviewed study of literature comparing inclusion and segregation could **not find a single empirical study that drew conclusions in favour of segregation** (Jackson, 2008).

A study of literature (Dr Kathy Cologon, 2019) found the following:

- inclusive education leads to better social development for children with and without disability.
- children who experience disability who are included into mainstream educational settings demonstrate better academic and vocational outcomes when compared to children who are educated in segregated settings.
- children with disabilities develop stronger skills in reading and mathematics, have higher rates of attendance, are less likely to have behavioural problems, and are **more likely to complete secondary school than students who have not been included.**

- as adults, children with disabilities who have been included are **more likely to be enrolled in post- secondary education, and to be employed or living independently.**
- children who do not experience disability have also been found to benefit academically from inclusive education with equal or better academic outcomes compared to children participating in non-inclusive settings.
- through participation in inclusive education, teachers experience professional growth and increased personal satisfaction.

In a summary of the evidence of Inclusive Education (Hehir, 2016), suggests that it is through the development of **a culture of collaborative problem solving** that the inclusion of students with disabilities serves as a catalyst for school wide improvement and yields benefits for non-disabled students. Every student's unique needs are being met because educators have developed the skills needed to move from the traditional classroom to a flexible learning space that facilitates collaboration.

On the basis of the evidence, an **inclusive education is better for student engagement, positive behaviour, mental health** and minimises the likelihood of a child with disability becoming an adult segregated from broader society. Not only would a person with disability then have the best chance to be a flourishing and contributing citizen, but they would also be seen as a valued member of society. This, in turn, would minimise their vulnerability and risk of abuse, neglect and exploitation.

This is also **consistent with the philosophy of the NDIS to increase the economic, social and community participation of people with disability.** It is important to acknowledge the significant work of recent governments with the National Disability Strategy to overhaul the disability sector. The fundamental purpose of the strategy is to include Australians with disability as full and equal citizens in Australian society. The reform agenda dictates that people with disability participate in the mainstream of society – in health, education, transport, housing and so on – and access specialist support and services only when required. The NDIS Scheme sets out to bring this to fruition. Inclusive education provides the right foundation towards reaching these overarching objectives of the NDS and of the NDIS.

Stronger community - Not only does Inclusive Education benefit all children but it also lays the foundation for strong communities that value diversity and can interact and prosper with a wide range of people.

Stronger economy - Inclusive education is necessary for the economy to grow the highest percentage of citizens that are working and contributing to society. One concern that is often raised is the cost of supporting all students within their local schools. A number of international studies, in Western nations, have found the immediate cost of inclusive education is comparable to that of operating special schools. However, the benefits for society once students, both those with and without disabilities, leave school and transition into adult life are much greater for everyone if they are part of an inclusive schooling environment.

Current students are the future employers of tomorrow and if we are serious concerning our

commitment to increasing the workforce participation of people with disability, then they need to be seen as equal contributors alongside their peers and through their education years. Our historical and current practice of segregated education speaks clearly to the current failing of employment opportunities for people with disability.

Stronger health - A recent study by the Advocate for Children and Young People found that students with disability reported the lowest well-being than their peers without disability. It follows that the sense of belonging and ability to contribute that comes from inclusive education will lead to positive mental and physical health.

h. Do you have any experiences that illustrate any of these matters?

Family Advocacy are compiling de-identified case studies which will be submitted in a separate document to the Commission. We are also encouraging families to make submissions directly to the Commission.

3.2 Reporting, investigating and responding to violence, abuse, neglect and exploitation

The Royal Commission will explore the adequacy of: (i) the mechanisms available to students with disability and their parents or guardians to identify, disclose and report instances of violence, abuse, neglect or exploitation; (ii) the procedures for investigation; and (iii) responses to instances of violence, abuse, exploitation and neglect of students with disability.

i. What barriers or impediments are there to **identifying, disclosing and reporting** violence, abuse, neglect or exploitation in education and learning settings?

- Non-verbal students may not be able to express when this has occurred. This is particularly compounded when a group of students with intellectual and/or physical disability are congregated together.
- The continued devaluing by being “done to” their entire life, can often mean that a child cannot identify or articulate when violence, abuse or neglect has occurred.
- Parents are not given access to classrooms to be a presence and/or support the child.
- Sometimes we hear from new teachers/teachers aides starting at a school that the culture in a support unit amongst teachers is such that certain behaviours which would be seen by the Commission as violence, abuse and neglect are readily accepted as the norm. This makes it difficult for the new teacher/aide to say anything or report anything as they are afraid they will lose their job.
- The culture currently is that the safety and welfare of the teacher overrides the child’s

safety and welfare.

- Lack of clarity regarding the complaints process. And usually the teachers version of events is accepted above the child's version of the events.
- Within an educational setting the teacher is supported by their peers, leadership team and, where applicable, the Teacher's Federation. For a student, their only representation, and in some case voice, is from a parent.

j. What barriers or impediments are there to adequately **investigating** violence, abuse, neglect or exploitation in education and learning settings?

- Lack of data being kept by the Department of Education regarding enrolment rejections, educational attainment/completion, suspension/expulsion rates, and use of restrictive practices.
- Lack of an independent body for oversight.
- Lack of a national (or State) legislative framework. As it currently stands, a large gap exists in relation to the education setting in terms of a national (or NSW) legislative framework for restrictive practice. Currently, we have the *Disability Standards for Education 2005* to provide guidance to education and training providers regarding their obligations to ensure students with disabilities have equal access to education (*Department of Education and Training (Cth), Disability Standards for Education (2005)*). The National Safe Schools Framework provides guiding principles to ensure safe and supportive school communities (*Department of Education and Training (Cth), National Safe Schools Framework (2010)*).
- The implementation of the *National Disability Insurance Scheme (NDIS)*, and the *National Disability Insurance Scheme Quality and Safeguarding Framework* have provided an opportunity to develop a consistent Framework but this is only limited to the regulation of NDIS-funded supports and providers. Therefore, restrictive practice in the education system is not regulated specifically by any of these frameworks and we recommend it is necessary to amend this, particularly in light of the evidence. Just having guidelines, and not mandatory requirements with consequences such as is the case with the *Disability Standards for Education 2005*, are not enough to motivate all schools to reduce and ultimately eliminate restrictive practice. We note the NSW government is currently reviewing the process of Restrictive Practices Authorisation in NSW in all settings with a report due in June 2020.

I was not informed of any behaviour support plan in place at school, nor that a restrictive practice took place. I found out because my son was distressed and he told me that two teachers pinned him to the ground face-down and he didn't understand why. This approach is simply not acceptable.

Proposals for reform on the systemic issue of restraint in schools were highlighted in the New South Wales Ombudsman's report Parliament, *Inquiry into Behaviour Management in Schools: A Special Report to Parliament Under s 31 of the Ombudsman Act 1974 (2017)*), which we support:

- **Proposal 15**, which includes the need for the department to develop clear and comprehensive guidance that strengthens the processes relating to actions that schools are required to take prior to adverse action being taken against a student in relation to their behaviour, and following any instance of the use of physical restraint,
 - **Proposal 26**, which includes the need for guidelines regarding the treatment of students – including students with disability – insofar as behaviour management and support strategies are concerned, and
 - **Proposal 28**, which includes the need for the Department of Education to focus on ways in which it can enhance its complaint and reportable conduct practices to better identify and track the use of restrictive practices; consistently examine complaints and reportable conduct matters relating to the use of these practices; and where restrictive practices are used, ensuring that their use is consistently and competently reviewed against 'best practice' policies and procedures.
- k. Are there **good practice** examples that encourage reporting, effective investigation and responses to violence, abuse, neglect or exploitation in education and learning settings?

Not that we are aware of, see the discussion in Question 8.

3.3 Education and inclusive societies

Education has been characterised as a 'bridging' or 'multiplier' right, enabling individuals to benefit from and claim other rights, such as those related to work, housing, political participation and access to justice. The Royal Commission will consider the link between inclusive education and an inclusive society, which supports the independence of people with disability and their right to live free from violence, abuse, neglect and exploitation.

Evidence suggests there is a link between inclusive education and social inclusion in the areas of education, employment and living in the community.¹ Research also demonstrates there is 'clear and consistent evidence that inclusive education settings can confer substantial short- and long-term benefits for students with and without disabilities.'²

I. What has prevented Australia from complying fully with its obligations in Article 24 of

¹ European Agency for Special Needs and Inclusive Education, *Evidence of the link between inclusive education and social inclusion: A review of the literature* (Report, 2018) [European Agency for Special Needs and Inclusive Education, Evidence of the link between inclusive education and social inclusion: A review of the literature.](#)

² Thomas Hehir, Todd Grindal, Brian Freeman, Renée Lamoreau, Yolanda Borquaye and Samantha Burke, 'A Summary of the Evidence of Inclusive Education' (Report, August 2016) [A Summary of the evidence on inclusive education](#)

the CRPD? What **needs to change** within

- a. Commonwealth, State and Territory governments,
- b. schools and communities, and
- c. individual classrooms, to ensure an inclusive education system at all levels?

Change may often proceed through small steps but the changes required to deliver this vision of inclusive education cannot be achieved just through tinkering with traditional education; rather it requires a transformation in which new ways of thinking are reflected in action at all levels in the education system, especially of course in the classrooms where teachers and students meet.

Transformational change requires a significant investment in developing transformational leadership, not only among policy-makers and professional staff but also among parents and students.

Gordon Porter, Director, Inclusion Canada, Advancing Inclusive Education, May 2017

NSW and Australia are lagging behind other jurisdictions around the world in their education and treatment of students with disability. For example, some jurisdictions such as Italy, some states in the USA and New Brunswick, Canada, have created educational reform to ensure that no child is in a segregated setting and that all children are given the best opportunity to learn and develop normatively in these formative years, together. We encourage the Commission to look further afield and would be happy to assist in this regard.

It is important to highlight that Family Advocacy has worked in partnership with the NSW government and the NSW Department of Education and has been funded by both over many years to provide training to support families in NSW around inclusive education. This includes teaching them about their rights, in an attempt to counteract the barriers that they face in trying to get access to an equitable quality education for their child.

The many government inquiries held in previous years, and recommendations that follow them, have shown that the system's attempts at reform have been tinkering around the edges and have not come close to providing the positive outcomes expected in 2019. This is why we recommend not improvements, but **transformation**.

We urge the Commission to adopt our recommendations suggested below. Our recommendations are inspired by Inclusive Education Canada's Advancing Inclusive Education document on the Keys to transformational change in public education systems, May 2017. They are based on the need to mutually reinforce actions at the classroom, school, district and government level. These suggestions are not meant to be seen as prescriptive but rather a helpful stimulus to the Commission as Australia finds its own route to transformation.

Recommendation 1: Develop an Inclusive Education System.

This can only happen if mainstream schools become capable of educating all children in their local communities. In a widely quoted section, the Salamanca Statement concluded that:

“Regular schools with [an] inclusive orientation are the most effective means of combating discriminatory attitudes, creating welcoming communities, building an inclusive society and achieving education for all; moreover, they provide an effective education to the majority of children and improve the efficiency and ultimately the cost-effectiveness of the entire education system. (ix)”

Recommendation 2: Encouraging Transformational Leadership.

The largest barrier to implementing an authentic inclusive education system which improves educational outcomes for all students is the existence of the parallel segregated special settings. This leaves school leaders and regular classroom teachers feeling compelled to indicate that there is another place for students with different learning needs. A more enabling model is one where the system is expected to guarantee participation in the regular class and all those involved ask “what will it take” to enable the child’s full participation. This can only happen if the option to segregate is not available.

Recommendation 2a: Merging our parallel system of mainstream and special schools into one wholistic system of education so all students are placed in regular classrooms with reasonable adjustments and supports so they can access the curriculum and extra-curricular activities. By doing so, we will be genuinely working toward Australia’s commitment to achieve the Sustainable Development Goal No. 4 to “Ensure inclusive and equitable education and promote life-long learning opportunities for all” by 2030.

Recommendation 2b: The starting point for this reform will be to **develop a national action plan** and for NSW government **to end segregation and exclusionary practices** and to undertake development of a comprehensive plan to revolutionise our system. This will require **political leadership** through legislation and policy, which are discussed below under “Tackling Barriers to Leadership”. Ensuring inclusion in the local school will require multi-layered strategies such as ensuring an attitude within a school that is welcoming to a child with a disability and their family, increasing the inclusive practice capacity of teachers, and providing adequate systems and resources to implement quality inclusive education.

To do this, we can move teaching expertise from segregated settings to the local school, to work together with the local teacher to educate every child. There are schemes that already exist that build a whole system—state, district, school, and community – with capacity to provide academic and behavioural support to improve outcomes for all students. In many cases, the wheel does not need to be recreated but modified to our particular system.

Recommendation 2c: Transformational change will also require investment in **developing transformational leadership amongst principals, teachers, parents and students**. Such

leadership needs to be found and nurtured, be given opportunities to be inspired, especially through learning from the achievement of students, as well as “space” for developing their skills through reflecting on their own experiences in the company of fellow leaders.

Recommendation 3: Educating for Life.

Traditionally, education has been focused on standardised knowledge acquisition and assessment on subjects defined academically, achieved through whole class instruction in ways which fail to recognise that every student is different. By contrast, Article 24 of the UNCRPD offers a more wholistic and empowering conception of education. This refers to students with disability but is relevant to all students, including other marginalized groups such as students with First Nations and CALD backgrounds.

We acknowledge this more wholistic philosophy was no doubt the intention behind the Melbourne Declaration 2008 to set Australia on a path toward a shared vision for education that reflected the demands of globalisation, technology and inequality in the 21st Century. Unfortunately, the lack of real action over the last decade, particularly in relation to the Gonski funding reforms, have been very disappointing. What is also disappointing is in the recently reviewed declaration for the next decade “*The Alice Springs (Mparntwe) Education Declaration 2019*” where children with disability were mentioned just once. The Australian government has missed an opportunity to send a message that students with disability matter, which is unacceptable given what we know about the systemic failure across Australia and that the rate and extent of segregation is growing.

Moreover, if a better future requires active citizens with different skills, thinking critically and working collaboratively, then these attributes need to be developed during the school years. Children that learn together, learn to live together.

Recommendation 4: Promoting an Inclusive Culture.

To achieve the safeguarding that comes from mainstreaming, requires inclusive and accessible communities. The challenge for government at a systemic level is to address community awareness and culture, the positive mindset of people with disability and the attitudes toward people with disability. The human rights, social and economic imperatives of the National Disability Strategy (NDS) are now well embedded in Australian legislation, governance mechanisms and policy directives. Nevertheless, to achieve inclusive and accessible communities requires a paradigm shift in community attitudes. Communities and institutional contexts can only become inclusive and accessible when they too take on board that people with disability are citizens first and foremost, and entitled to a respected place in society, due process and protection from harm.

The stories shared by our families in the examples above highlight the Disability Discrimination Act can only get you so far in the education setting, but a positive attitude of those in charge of the school and classroom can make a lot of difference.

We currently have a culture of exclusion which prohibits students with disability from enrolment in the regular classroom. The research provided shows unequivocally that exclusion has a negative impact on students with disability, and students without disability are missing out by not having students with disability in their class. Therefore, continuing to segregate will adversely impact educational outcomes for all students. A transformation in culture and practice is required to ensure that all students benefit.

Recommendation 5: Developing Partnership.

The positive stories of inclusion we shared in submission number one show collaborative processes are an integral way to bring about best practice and positive student outcomes. Through a funding grant from The NSW Department of Education we are currently developing a collaborative engagement framework which aims to guide conversations between educators, parents and students that will enhance student supports and successes for a positive educational experience. We recommend something similar occur at a national level. We are open to sharing this document with the Commission upon completion, if it would be of assistance.

Recommendation 6: Investing in Equity.

To achieve this transformational change, governments need to invest resources in education system development and ensure that specialist expertise moves into the support of mainstream schools. Resources need to be allocated in a way which encourages inclusive school enrolment and fairly reflects the needs in each school.

Recommendation 7: Tackling Barriers to Participation.

As discussed, there are physical and attitudinal barriers to the equitable participation for a quality education. Some may be about the physical design of buildings, the local transport system, availability of aids and adjustments, or about how students are understood or learn differently. Identifying and reducing these barriers in order that no student is disadvantaged is an important task of legislation, policy and practice. First, there is a need to see disability as a consequence of poorly designed environments, not something which is located inside the individual. Legislation can set out the requirements for schools to make 'reasonable adjustments' including ensuring students that experience obstacles to learning gain access.

Recommendation 7a: Inclusive Education Policy. As we have previously recommended, Australia (and NSW) needs an Inclusive Education Policy that establishes the requirements to ensure public schools are inclusive. Inclusion, without definition consensus, is difficult to apply. Without this directive piece, schools are left to interpret what it means in their settings, and critically what impact it has on young people and their learning journeys. We must ensure clarity as to the definition of inclusion, affirming the human rights of each student to an inclusive education in accordance with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), General Comment No 4 (2016) on Article 24: Right to Inclusive Education (Para 9).

Recommendation 7b: Review the legislative frameworks. More robust legislation is required to provide more clarity in regards to defining the responsibilities of school leaders to provide a more inclusive education for all. For example, the definition of “reasonable adjustments” is not clearly defined under the Disability Discrimination Act 1992 and leaves a student with disability open to indirect discrimination by a school leader who decides that an adjustment requested is unreasonable as it will cause undue hardship. This can be their own substantive opinion rather than an objective measure. One family reported to us that their local school said it was unreasonable to provide a full time AUSLAN communication partner for a student who communicated solely through sign language.

Other potential legislative reforms we suggest are; looking more closely at the definition of disability and section 45 in the DDA, and the reference under the NSW Education Act 1990 to “children of a kind” where they are children who need special instruction because of sensory, physical, intellectual or emotional disabilities. Where a school is registered as providing “education of a kind, or for children of a kind,” they must have only students enrolled at that school that meet those criteria.

Also, where a school is registered as providing education of a kind, or for children of a kind, the Education Act makes provision for the school to provide specific curriculum to cater for the needs of its students. This is how Special Schools can exist even though they are notionally discriminatory by segregating children.

We presume the intention of the Act was to ensure the curriculum was adjusted to meet the needs of students with disability. But it has had the unintended consequence that it is almost forcing the discrimination of children with special needs as it has ended up segregating them. We need to eliminate loopholes such as these that continue to support segregation and create barriers to inclusive education.

Recommendation 7c: Independent Complaints process. Family Advocacy’s position on restrictive interventions in educational settings is that the rights of students and teachers would be better protected by establishing a system with independent oversight for reporting and monitoring. Independent, transparent data and analysis, combined with continuous quality improvement review mechanisms in place to support schools to manage behaviours of concern while protecting the rights and dignity of children in their care.

As previously discussed about restrictive practice and reform, an independent central review panel should be established to consider appeals in the first instance. Timeliness would be critical to this process. In the event that the decision is unsatisfactory to the person with disability or their parent/guardian/advocate, then appeal options should form part of this process through current structures such as the NSW Civil and Administrative Tribunal. This will require legislation. Whilst it may take longer, this is a preferred pathway as it critical that this process be both independent and rigorous.

Recommendation 8: Strengthening Inclusive Pedagogy.

Families having a good inclusive school experience tell us that good teachers think carefully about how each student learns best, taking into account different aptitude and learning styles. We have previously mentioned Universal Design for Learning and tailored individual adjustments provide a framework for equitable participation.

The Department of Education can support schools to provide support to classroom teachers through sharing best practice, providing multi-professional expert advice, and allocate relevant resources such as co-teachers and teaching assistants.

Government can foster inclusive pedagogies through policies on flexible curricula and investment in teacher education.

Recommendation 9: Prioritising Professional Development.

For regular mainstream teachers, until there is an authentic expectation of students with disability in the mainstream classroom then they will continue to feel unprepared and unable to teach to diverse classrooms due to either poor pre service teaching or not having done 'inclusive ed' electives. It is important that teachers and other staff are fully equipped to deliver inclusive practices in the school and the classroom.

We need practitioners to feel equipped and empowered to support the needs of all their students because teachers prepared to work effectively with a diverse range of learners' needs can act as multipliers for inclusive education.

Lack of quality teacher education and support is a barrier to inclusive education. Teachers attitudes directly influence the implementation of inclusive practices in the classroom. Teacher education is directly related to teacher attitudes. Teachers who receive education about inclusion have been found to be more likely to have positive attitudes towards the inclusion of children with disability.

From the experiences of our families, an approach to pre-service teacher education would be to move away from deficit thinking with low expectations to an approach that welcomes and celebrates differences. It is not only disadvantaged and vulnerable students, but all students who will benefit from this approach.

In part, this is about the reform of teacher and other professional education in the Universities and other training institutions. It would be useful to make inclusive education (as distinct from special education) a mandatory requirement via the Australian Institute for Teaching and School Leadership (AITSL) as part of inservice training.

It is important that it is distinguished from special education. It is also about prioritising continuous development for qualified practitioners. Teachers need to be afforded the time and space to reflect on their experiences with other teachers, and learn from parents. In Canada, one method that works well is a "solution circle" which offers practical and efficient ways in which small groups of teachers can help each other find practical solutions to

challenges arising in the classroom.

Recommendation 10 - Learning from Experience.

Not only is leadership development and professional development important for educational transformation, but it is also vital to learn across the system as a whole, both vertically and laterally, so that policy is responding to experience in the classroom and vice versa, and one innovation area is informing the other. We need leaders to be engaging with each other, assessing challenges, identifying priorities, and monitoring progress against the shared vision of inclusion.

Family Advocacy has had the opportunity to see the Inclusive Education system in New Brunswick which started the process in the 1970s. What stood out to us was the commitment to regular review of progress in the whole province. There are many tools they have created to assist in this review process. One example is an Index for Inclusion: Developing Learning and Participation in Schools.

Recommendation 11 - Plotting the Journey to Inclusion.

Inclusion is a journey not a target. Value driven and creative leaders work with each other to plot the journey and this can start in different ways - parents seeking mainstream schooling, teachers starting to innovate in their own classrooms, principals taking their own schools in new directions, political leadership inspired by a human rights perspective. Whatever the initial impetus, leaders will need to establish a compelling vision of inclusive education and build wider support for change.

Recommendation 12 - Effective and efficient funding allocation.

The biggest impact regarding school funding to support inclusive education would be to shift the organisation of resources and infrastructure from the segregated setting to the inclusive setting. As we have previously explained, current evidence and values of community inclusion no longer support the model currently in place.

It is extremely important that we highlight that the success of inclusive education is not solely reliant on funding. What is also significant is having school leaders that create an inclusive culture. A school with an inclusive culture will search out solutions, use collaborative problem solving and flexible working structures.

As previously discussed, the inclusive culture provides a significant positive impact on learning outcomes for all students including disadvantaged and vulnerable students.

- m. What is essential to facilitate the **transition** from segregated or integrated settings to inclusive education settings, and to sustain the change?

Apart from the below, we refer to our recommendations in Question 10.

An open, honest and trusting collaboration of the student, parents and teachers is essential. The Principal of the new inclusive setting to be openly welcoming, encouraging and supporting of the transition, not only with the student, but the parents of the student and the class room teachers, and support staff.

Successful transition occurs when:

- pre-planning has occurred, with all interested persons being involved.
- it is over a reasonable period of time and is not a rushed process.
- the student is made to feel welcome and part of their new schooling community.
- Ownership occurs when a uniform is bought and worn.
- When they are encouraged and supported to spend time with their peers, and the peers are supported and encouraged to welcome their new class member.
- the student, parent and teacher are encouraged to meet regularly to problem solve, set goals and tasks, and when these goals are re-evaluated during the school term.

Successful transition, once established, can be sustained by the ongoing collaboration between teacher, parent and student. Whereby all parties feel supported. Teachers also require ongoing support, encouragement and training for the sustainment of a successful transition from segregation to inclusion.

- n. What is the impact of inclusive education on the **life course outcomes** (including learning and employment outcomes) of students with disability? And students without disability?

See our answer to Question 2.a. and Question 5.

We also have some wonderful examples where inclusion has worked well for a child and their family. The common theme to a positive inclusive experience has been the “will” of the school to give it a go (mindset of a welcoming culture), see inclusion as a journey (a process not a target), and the willingness to collaborate with the family (positive partnerships). We encourage the Commissioners to view two films we have recently produced:

- [Al's Story](#) (15 minutes), a moving account of a young man experiencing an inclusive education from Year K -12 and includes the views of student, parent, teacher, and principal.
- [Josh's story](#) (6 minutes) illustrates that employment can be the norm following an inclusive education rather than a day program and sheltered workshop. Josh now runs his own mail delivery business and is a valued and respected member of his community.

We also share as an attachment in the email to Submission No.2, a video (8 minutes) from Springfield Collegiate in Winnipeg, Manitoba, Canada, a high school that includes student with disabilities including more complex disabilities. The video has the voices of teachers and

students and highlights how students without disability also benefit from inclusion. Please let us know once you have had a chance to see the video or if you have any trouble accessing the video.

For me inclusion is about Hannah fully participating – not doing something else. Last term the school musical took place. This followed 3 terms of rehearsals and preparation. The kids involved would stay back every Monday until 7 and order pizza. It was wonderful for Hannah to have the opportunity to be part of that – to meet kids from other grades with the same interest and to share in the experience. There was a real bond between the kids by the time the musical took place. Kids still stop and talk to Hannah.

She did not have a stand out part but she was part of it. There was no expectation that the family would stay. She was just allowed to be part of the group. It was inclusion at its best - a real opportunity to be part of the gang. Other parents also saw her there as just one of the kids. Often, parents are the ones you need to win over as parents' attitudes rub off on kids.

Lyn, mother of Hannah

o. How does inclusive education **promote a more inclusive society**?

The answer to this is summed up well by the international speakers at Family Advocacy's National Symposium on Inclusive Education 2017.

- Jody Carr, Former Minister for Education, New Brunswick, Canada, who said

“Children that learn together, learn to live together”.

- Dr Simona D'Alessio, Italy a researcher and inclusive education consultant shares the 40-year-old Italian experience of educating all students in common learning environments. Dr D'Alessio unpacks the ways Inclusive Education delivers better social and academic opportunities and success and more socially aware citizens.

We encourage the Commissioners to view a condensed version of their presentations (less than 6 minutes) on our Inclusive Education online platform, [Access:Symposium](#).

We refer to our discussion of the research in Question 5 and Question 12, in terms of the academic and social benefits of inclusive education for the student with disability and also the student without disability, as well as the better life course outcomes.

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