

*family*

A D V O C A C Y

**Submission to the Royal Commission into Violence, Abuse,  
Neglect and Exploitation of People with Disability  
Submission No.1: Inclusive Education**

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

*Jody Carr, Former Minister for Education, New Brunswick, Canada,  
speaking at  
Family Advocacy’s National Symposium on Inclusive Education 2017*

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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.

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## Executive Summary

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.

In order to prevent abuse, neglect, violence, and exploitation of children 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.

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.

Family Advocacy appreciates 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.

We have provided many submissions spanning over decades in the education setting. More recently, the 2010 NSW Parliamentary Inquiry into the *Provision of education for children with disability and special needs*, the 2015 Senate Inquiry named *Access to real learning: the impact of policy, funding and culture on students with disability*, and the 2017 NSW Parliamentary Inquiry titled *Education of students with a disability or special needs in NSW*, 2017 *Review to Achieve Excellence in Australian Schools*, and the 2018 NSW Education Standards Authority (NES) *Curriculum Review*.

For this reason, Family Advocacy would welcome the opportunity to provide evidence when there is another hearing date issued in relation to education, as we believe we are in a good position to provide genuine feedback

on the experience of students with disability and their families with a focus on the way moving forward. In addition, 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.

### Summary of recommendations:

Recommendation 1: Developing an Inclusive Education System.

Recommendation 2: Encouraging Transformational Leadership.

2a: Merging our parallel system of mainstream and special schools into one holistic system

2b. Develop a national plan; end segregation and exclusionary practices

2c. Develop transformational leadership amongst principals, teachers, parents and students

Recommendation 3: Educating for Life.

Recommendation 4: Promoting an Inclusive Culture.

Recommendation 5: Developing Partnership.

Recommendation 6: Investing in Equity.

Recommendation 7: Tackling Barriers to Participation.

7a. Adoption of an Inclusive Education Policy

7b. Review the legislative frameworks

7c. Independent complaints process

Recommendation 8: Strengthening Inclusive Pedagogy.

Recommendation 9: Prioritising Professional Development.

Recommendation 10: Learning from Experience.

Recommendation 11: Plotting the Journey to Inclusion.

Recommendation 12: Effective and efficient funding allocation.

## Introduction

Family Advocacy is an independent not for profit organisation that works across NSW to promote and protect the rights and interests of people who have developmental disability<sup>1</sup>. We were founded by families of people with disability and continue to be governed by families. We provide support in the following ways:

- Statewide Advocacy advice and advocacy information to individuals
- Advocacy development for family members of a person with disability
- Systemic Advocacy

Advocacy is often undertaken by families and those advocacy efforts can be required over the lifetime of their family member. We recognise that the advocacy undertaken by families can be the greatest safeguard in their family member's lives.

We support families to advocate with or on behalf of their child or adult family member to have the good things in life most of us would expect in Australia. What does a “good life” mean? 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 “good life” are the socially valued roles that follow<sup>2</sup>. 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.

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. 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

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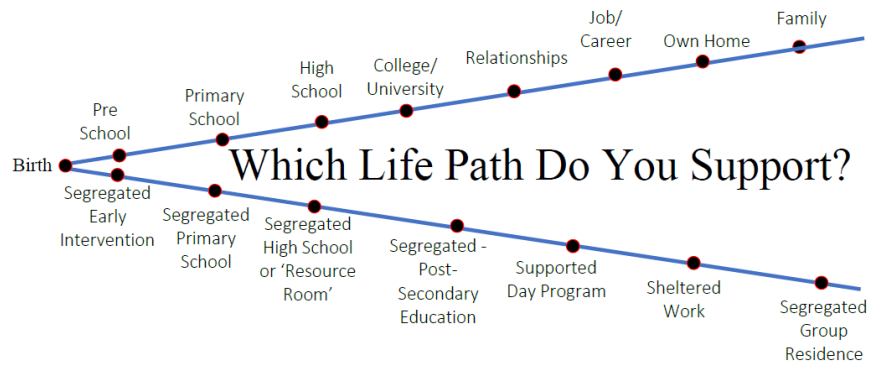
<sup>1</sup> Developmental disability is a disability that occurs in the developmental period of a person's life (in the period from conception to adulthood) and includes but is not limited to: autism, intellectual disability, cerebral palsy, spina bifida, and any combination of physical, intellectual or sensory disability.

<sup>2</sup> Family Advocacy's initiative, Resourcing Inclusive Communities, has produced a booklet called *Life Long Learners* (2019) to illustrate these socially valued roles. <https://www.ric.org.au/assets/Uploads/resources/1574141eb1/lifelong-learners-booklet.pdf>

“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 will be explored in detail later in this paper.

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, which are in conflict with the United Nations Convention of the Rights of Persons with Disability (UNCRPD)<sup>3</sup>. 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.



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The diagram above 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 “good life” we discussed earlier. 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”.

There are many other reasons for and benefits to, inclusive education. It is a human right; it is supported by the law; decades of research show it is in the interests of the child and provides better life outcomes; it increases the

<sup>3</sup> United Nations. 2006. *United Nations Convention on the Rights of Persons with Disabilities*. New York, NY: United Nations.

likelihood of economic contribution in the post school years with less reliance on the welfare system; and it is better for society as a whole because our society is made up of diverse communities and this reality should be reflected in our schools.

## Abuse and Neglect for students with disability

A recently released 2019 education survey conducted by Children and Young People with Disability Australia (CYDA)<sup>4</sup> found that students with disability are routinely excluded in their education, with many being segregated from 'mainstream' schools and classrooms, not attending school full-time, refused enrolment and excluded from school activities. Suspensions and expulsions are also familiar practices, showing the lack of understanding and support for students with disability.

The opportunity for students with disability to experience physical, social and curricular inclusion in their local school, however, is still variable, and possibly getting worse. The data from a 2017 Australia-wide survey from 745 families (parents, carers, and students with disability) showed over 70% report experiencing one or more examples of gatekeeping used to minimise the enrolment into mainstream, and/or restrictive practice. Restrictive practice will be discussed later in this paper. NSW figures reflect the same percentage as the national results<sup>5</sup>.

Anecdotal evidence in Family Advocacy's contact with families of school-aged children supports the above findings. An experienced family advocate with adult children, notes that the same issues continue for parents today as when she advocated for her daughter at school a decade ago. These barriers in getting access to an equitable education are a form of abuse and neglect. Examples from family case studies are provided below.

### 1. Gatekeeping

Despite being in breach of the Disability Discrimination Act 1992, gatekeeping behaviour on the part of school staff is an ongoing issue and deterrent for parents seeking to enrol their child in the regular class. Contemporary discrimination against students with disabilities continues in a much subtler way than it once did.

Education providers may not inform families of children with disabilities that they have a choice to be enrolled in the regular class and that there are additional measures to provide appropriate support. Research suggests this is often about principal and teacher attitudes<sup>6</sup>. It is not uncommon for families to be heavily persuaded to enrol their child in a support unit or special school.

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<sup>4</sup> Children and Young People with Disability Australia (2019), *Time for change: the state of play for inclusion of students with disability – results from the 2019 CYDA national education survey*, October 2019.

<sup>5</sup> Poed, S, Cologon, K, & Jackson, R. (2017). *Gatekeeping and restrictive practices with students with disability: results of an Australian survey*.

<sup>6</sup> Cologon, K (2019), *Towards inclusive education: a necessary process of transformation*. Report written by Dr Kathy Cologon, Macquarie University for Children and Young People with disability Australia (CYDA)

Often they are told by multiple school professionals (perceived as the experts by the parents) such as principals, teachers and school counsellors that considering a regular class for their child would be detrimental to both their child and the other 'non-disabled' children. Or they can only accept their child for part-time hours, or a late drop off/ early pick up, or suspend/ expel the child for behaviour that occurs as a result of their disability and due to inadequate supports.

At a recent Family Advocacy event, we asked parents to list the explanations they had been given by principals and other school staff for why their child did not belong at the school. The list is as follows:

<p><i>But this is what we have always done</i></p> <p><i>Teachers aren't therapists</i></p> <p><i>Special schools are best practice and this is reality</i></p> <p><i>They are becoming mainstream but not there yet</i></p> <p><i>We do reverse integration</i></p> <p><i>You have your head in the clouds</i></p> <p><i>You do realise your child has a disability</i></p> <p><i>Our school is heavily unionised</i></p> <p><i>When they grow out of disability they can come</i></p> <p><i>You haven't accepted your child's disability</i></p> <p><i>We already have a child with disability</i></p> <p><i>We have done all we can for your child</i></p> <p><i>We only take children with high functioning disability</i></p> <p><i>You don't always get what you want in life</i></p> <p><i>Your child is not disabled enough for individual funding</i></p> <p><i>There is such a big academic gap so it won't work</i></p> <p><i>They are not a good fit</i></p> <p><i>This will be too exhausting</i></p> <p><i>We don't have enough resources</i></p> <p><i>We don't know how to teach children in mainstream</i></p> <p><i>Our teachers aren't babysitters</i></p> <p><i>Our teachers aren't nurses</i></p> <p><i>We have no specific disability knowledge</i></p> <p><i>Your child is a risk to others</i></p> <p><i>In high school the gap gets wider</i></p> <p><i>Your child excludes himself/herself</i></p> <p><i>We are already dipping into the general budget</i></p> <p><i>Kids are cruel so they are better off somewhere else</i></p> <p><i>Their self-esteem will be affected</i></p>	<p><i>We have no resources</i></p> <p><i>We don't have the skills</i></p> <p><i>We can't afford the modifications</i></p> <p><i>Your child won't get funding</i></p> <p><i>Our school is heritage listed so it's not a good idea</i></p> <p><i>When she is toilet trained</i></p> <p><i>My teachers don't have to teach your child</i></p> <p><i>You got lucky in primary school</i></p> <p><i>The gap gets wider so why put them through it?</i></p> <p><i>They will take teacher's attention away from the students</i></p> <p><i>Will you be paying for this?</i></p> <p><i>You don't realise how tired this will make the teachers</i></p> <p><i>We are not experts</i></p> <p><i>They won't identify with their peers</i></p> <p><i>You will get backlash from other parents</i></p> <p><i>We don't teach them</i></p> <p><i>She can't be educated</i></p> <p><i>He doesn't meet school requirements</i></p> <p><i>She can't come here because we can't lift her</i></p> <p><i>We have done all we can</i></p> <p><i>We can't solve all the world's problems</i></p> <p><i>Your child is not a good fit</i></p> <p><i>There are special places for your child</i></p> <p><i>You are ruining your child's future</i></p> <p><i>You are not doing the best for your child</i></p> <p><i>Your child doesn't belong with adolescents</i></p> <p><i>We will get a teacher's assistant to teach them</i></p> <p><i>There is best practise and there is reality</i></p> <p><i>It will be an unjustifiable hardship</i></p> <p><i>Not in our area</i></p>
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Systemic discrimination exists before a child has set foot in a school. Children without disability and their families do not encounter these barriers. Instead, they are given a welcoming attitude with high expectations and a willingness to do what it takes to support that child's learning and involvement in school. There is no question about this.

Conversely, for those with a disability, this is not the case. The consequence of gatekeeping to both child and family are obvious. Rejection, stigmatisation, lack of educational outcomes, isolation, low self esteem. Far more needs to be done to enforce the law prohibiting the prevention of enrolment of students.

*My child was rejected by 13 schools on the Central Coast. Due to no public schools accepting my child, I sent him along to a special school 50 minutes drive away, so four trips a day with his younger sibling. Not only was this travel wearing us down, this became a problem when his younger sibling had to start Kindergarten at our local school with the same start/finish times.*

*Aside from the fact that I was refused transport by the NSW government, I really wanted both my children to go to the same school together as I had learned that all the statistics show inclusive education is beneficial for kids with disability, and in fact, all students.*

*I found a school where the principal was prepared to enrol my child in the support unit with the idea to transition to mainstream. I was contacted by a person from the Department of Education who told me the decision is not up to the principal and that we needed to undergo further IQ assessments, which we did and the results stating my child's disability was moderate/mild. The lady from the Department of Education met my son for a few minutes in the waiting room before the IQ test, called me later stating he was severe, needed a lot of support and is best suited to an IO (moderate intellectual disability) class or she can force a particular school, which I won't name, to take him. (I have since heard from schools "off the record" saying the suggested school has a reputation for moving kids with disability away to other schools all the time. ) She advised me that all places in mainstream classes were full and told me she had 30 years of experience with kids with a disability and he needed to be with his own kind.*

*After a lot of stress, advocacy and persistence, we finally have found a school that would accept both my kids and I have one drop off and pick up time. The school has been welcoming, accepting, made adjustments to the curriculum, included my child so he feels like one of the kids. **There is no change to my funding situation, just the attitude from the principal and teachers, whom I am so grateful for.***

Parent of a child in a mainstream class.

*We were rejected by 12 schools, 7 Catholic and 5 Public Schools. We applied north, south, east and west of where we lived. Eventually, we found a school willing to give our son a "fair go" but it meant we had to move away from our family base and our chosen parish*

*The schools kept wanting to get him IQ tested. But we disagree with this completely because our son is a human being, he is not someone you apply a number to and stick him in a box, because you can't summarise a person based on a particular number. No number can measure that he is so caring, loves to learn, adores play, is a beautiful brother to his siblings. These tests medicalise people but he needs to be educated with his peers within his local school, where his siblings attend. What he learns socially is just as important as academics.*

Parent of a child in a mainstream class

## 2. Low expectations

Many schools are failing to recognise their responsibilities to educate all children. The underlying assumption is that some students are not deserving of the “good life”. This is in part a consequence of low expectations of students with disability – that educators and other students fail to recognise students with disability as capable of learning. Another factor is that teachers are not confident and/or competent of how best to educate students with disability, and therefore may not adequately take into account the different learning needs of these students.

*It became obvious my preschool child had a good day whilst he was in an inclusive learning space in a regular daycare (where **he was treated like a child first before a label**) but not in the Early Intervention Centre (IEC), which was therapy based. I wanted him to be in a regular class at his local school but was pressured by the school that he would be better off in the support unit.*

*In term 1, he received an award for being the most inclusive child in the school playground where all children, including from the mainstream, played together. In term 2, they decided to restrict all the SU kids to a sandpit with a locked pool fence euphemistically named “the sensory garden”. This is a form of social and environmental restrictive practice. He could not read or write by the end of the year.*

*He regressed socially and academically. He displayed similar behaviour to when he attended the EIC. His speech went backwards, he would only grunt like when he was 3 years old. He refused to enter the classroom. He could not read or write.*

*During this period, I started to learn about my child’s rights and the legal obligation of the school. I decided to move him to a regular class in a mainstream school. By the end of Year 2, he could read and write at peer level and when he is sick, his friends run up and tell him they missed him.*

*The difference? The attitude of the Principal and teachers treating him like one of the kids and provide support where needed. See him as a person first and label after that. Staff have a collaborative working relationship with me with the focus on what is best for the child.*

Parent 1

*“At the end of the year, his books came home with pages of empty worksheets”*

Parent 2

Originally selected a special school because she was told her child would be given more attention and better learning (six children ratio to a teacher and a teacher’s aide). Now he is in mainstream and having to play catch up but is making progress in literacy and numeracy.

*“Every day I picked him up he was sat in front of Wiggles videos”*

Parent 3 - Kindergarten child given no option but support unit in a mainstream school

*"How will his speech improve when he is in a class with children who don't speak?"*

Parent 4 - Wanting mainstream but forced into special school setting

### 3. Partial enrolment

Often, a family has to fight to get their child with disability into school in the first place. Then once a child is finally admitted to school, problems do not end there. Many families report being overjoyed at finally gaining a successful enrolment in a mainstream class only to find that it is not for a full day but part of a day, sometimes as little as one hour per day (and without even having a full day's trial). If a child's part-time trial is successful and they are allowed to attend full time, it is not uncommon for the family to be told to drop late and pick up early, or collect early sometimes within only one hour after school has commenced.

#### **Experience of a parent of a child when moving from a special school to a mainstream school**

*When my son moved from a special school to a mainstream school, he was put on a trial from 9am-3pm without a teacher's aide and all went well. Despite this, the school said he needed to be on a partial enrolment from 9-12.30pm for five weeks. We wanted to question the purpose of partial enrolment and why five weeks? There was no reason for this. But there is such a power imbalance between us as parents of a child with disability and the principal, we dared not ask. We were so happy our son was being given a chance.*

*In this time, our son absolutely loved being in a mainstream school in a regular class. His horizons expanded enormously. He quickly identified and wanted to participate in the debate team, a talent show, computers and netball. He was given a Teacher's Aide for 1 hour per day for Maths support as his avoidant behaviour can be disruptive. There were no incidents over the five weeks. We expected full time attendance would follow.*

*On the last day of the partial attendance plan, the school told us it would rezone the plan for another five weeks from 9am-2pm. They simply said we would like him for full attendance next year but we will see how we go. This cut off the last session of the day, which were netball or computer, the subjects he was really interested in. So it didn't make sense to us when the school told us the reason for not giving him the full time enrolment was because our son had told them he was not sure he wanted to be there the whole day. Again, as parents we do not feel we have the power to argue with the principal and have to accept what we are given.*

*It was clear our son is happy to go to school, he has a sense of belonging. He specifically asked for the teacher aide to be out of the way in maths and he should sit with the boys. He has his eyes on the future, can't wait for school camp and has set a goal to be the school library prefect. We can see how now he feels like a citizen, like he belongs, he is recognised. This did not happen when he was at the special school.*

### 4. Suspensions and micro-exclusions

For all human beings, behaviour is a non-verbal form of communication - for both verbal and non-verbal people alike. When our needs are not being met, if we are excluded, devalued, disrespected, misunderstood, not

listened to, and our potential is underestimated, it is normal to feel frustrated, to disengage, and for our patience to be tested.

Research shows that suspension may exacerbate challenging behaviour for students with disability or trauma. The NSW Ombudsman Inquiry into behaviour management in schools (2017) found that students with cognitive/learning impairments are over represented in suspensions, along with students with a child protection/OOHC history, and Aboriginal students<sup>7</sup>.

A national 2019 report from Children and Young People with Disability Australia (CYDA)<sup>8</sup> found widespread evidence of micro-exclusions such as being denied access to the curriculum and school. Almost half of the students were excluded from participating in excursions, sports, athletics and swimming carnivals, school camps, events and in-school activities such as dance class.

Four per cent of NSW public school students, or 32,300 children, received short-term suspensions last year, with more than 9000 of them in primary school. About 1.5 per cent of all students were given long-term suspensions, lasting for between four and 20 days<sup>9</sup>.

Figures from the NSW Department of Education show the number of Kindergarten students suspended rose from 398 in 2014 to 626 in 2018, raising concerns small children are being sent home as punishment for the NSW Department of Education's failure for not providing the appropriate support considerations and arrangements.

We question the efficacy of the current approach to "Behaviour Management". Even the term, NSW Discipline Policy implies a punitive approach, suggesting that it is the fault of the child without any regard to the environment surrounding the child or making adjustments to cater for the needs of the child. When a child cannot read, we teach. When a child cannot do maths, we teach. Yet, when a child does not behave, we punish. We need to teach positive behaviour strategies.

The official position of the NSW Department of Education discipline policy statement says suspension is not designed to be punitive, but rather to give the school, student and parents time to put strategies in place to help avoid a similar situation in the future. However, the parents we hear from do not see any changes occurring in the process, the environment or the way their child is understood or considered and yet they are expecting a different result from the child. This is unreasonable, unfair and ineffective.

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<sup>7</sup> [https://www.ombo.nsw.gov.au/\\_data/assets/pdf\\_file/0018/47241/NSW-Ombudsman-Inquiry-into-behaviour-management-in-schools.pdf](https://www.ombo.nsw.gov.au/_data/assets/pdf_file/0018/47241/NSW-Ombudsman-Inquiry-into-behaviour-management-in-schools.pdf)

<sup>8</sup> Children and Young People with Disability Australia (2019), Time for change: the state of play for inclusion of students with disability – results from the 2019 CYDA national education survey, October 2019.

<sup>9</sup> <https://www.thecourier.com.au/story/6495485/it-doesnt-make-sense-more-than-600-kindy-kids-suspended-last-year/>

*The school is framing my 6 year old child as violent! This is a problem. No child is born “violent” or wants to be in trouble. By using this phrase, there is a subtle criminalising of a child’s behaviour. His behaviour is partly due to his disability but really it is due to the system that does not support his disability. I am concerned if these suspensions continue, he will enter the school to prison pipeline. If the school keeps alienating him, he will end up in the justice system.*

*In an effort to get more funding, the school did a series of standardised tests on my child to get a diagnosis. The tests were done in an unwelcoming room with a stranger to him. After this, his behaviour was triggered and the school’s response was heavy handed. He had 7 suspensions in 2 terms, ranging from 1 to 5 days. We were threatened with 20 day suspensions if we did not comply.*

Parent of a child in a mainstream school

The cost to families – financial and social – cannot be underestimated. Many families have resorted to home schooling after multiple suspensions in primary school. This has an impact on a family’s income capacity, let alone the impact on a child’s academic and social learnings.

*I was self-employed. I had to drop a project and clients and had to borrow money. It is impossible to work with all the school meetings and getting called in regularly to collect your child because there has been an incident. Before, my child was stigmatised as “trouble” and so there are no playdate invitations, so its isolating and we didn’t feel like we are part of the school community. Now, my child has positive days; he plays with other kids and so we interact with other families from the school.*

*The attitude of the teacher had a huge impact on my child’s behaviour.*

*I would question what the antecedent to the behaviour. Often, I would not be told the whole story. it would become clear that my child’s needs were not being met, or it was from not understanding him as a person first, his developmental needs were not being recognised, and/or not enough care had been provided to him, being expected to do things he did not have the capacity to do. If the teacher had recognised my child’s behaviour was his way of telling her something, a form of communication, there may have been a different end result. No kid wants to be in trouble.*

*We found a very insightful psychologist who taught the teacher that time out for my child is unhelpful, suspension will embed the behaviour, the child needs support not punishment. Using words like violence is stressful and unhelpful. For a child with severe ADHD and Autism, if they are feeling elevated, it is important to have a safe space to go to such as the library and a safe person to talk to, to build a strong relationship with an adult at the school.*

*To the school’s credit, they took the psychologist’s advice and after a long process of teacher/parent collaboration, my child is happy and calm, attending full time hours, maturing as he feels he is in a secure environment that is supporting him. The teacher has a personal passion for different learning styles, made incredible accommodations for our child such wobble chairs, or making the alphabet out of 3D foam so my child could learn in a tactile way. My child is thriving. Behavioural issues were a daily occurrence. Now they are just every now and again.*

## 5. Restrictive practice and reform

The recent 2016 Parliamentary Inquiry on Children with Disability and Special Needs in Education in New South Wales heard that advocacy groups ‘are getting increasing reports of restraint and seclusion’(Legislative Council Portfolio Committee No 3 — Education, above n 14, 24; and 106) where the same inquiry reported serious concerns about ‘harm caused to students when practices like restraint and seclusion are used’. Below are a few de-identified stories from families:

### Physical

*One family member shared that in the case of her child, she was not informed of any behaviour support plan in place at school, nor that a restrictive practice had taken place. She only found out because her son was distressed and he told her that he had been pinned to the ground in a prone position by multiple staff members. This is not acceptable.*

### Chemical

*After an incident occurred where my son “lashed out”, I was told my son could not come back to school unless he took medication to calm him down. What they failed to tell me, and I subsequently found out, was that he was surrounded by four boys and he was being bullied. If the school had addressed the bullying, the behaviour would have stopped. Instead, my son was in fear of his life and he retaliated to protect himself. When I picked him up, he was laying on the floor in the foetal position, clearly distressed and traumatised.*

### Mechanical restraint

*One family told us their child was not allowed to use their motorised wheelchair and so the staff turned the power off to the chair and their son was left without anyway of moving. This was done in the name of safety.*

*A Current Affair also reported the case of a primary school student who was being tied to chair with a belt in order to keep him still, without the knowledge or consent by the parent.*

### Psycho-social

*In Kindergarten, he had the most amazing teacher that understood different learning styles, really got to know him and my son would run out of class with a smile on his face. The next term he got a new teacher who was the polar opposite, rule oriented without flexibility and with a punitive approach. One day, he would not come out of class and I found him under the table, screaming. The next morning he got himself ready saying he wanted to go to the bin. Turns out, the teacher had chastised him for not sitting still for one hour, ripped his sticker book rewards chart and told him he would have no friends if he kept behaving that way. I say again, this is in Kindergarten.*

**Social**

*In Year 7, my son who is in a wheelchair was placed in the “out of bounds” area with two teacher’s aids. It was at the top of a hill. All the Year 7’s played at the bottom of the hill. This went on every recess and lunch for a whole term before I found out. There was no discussion or problem solving, nothing.*

*In Year 10, all the students were to attend a tax seminar but the room it was scheduled in was upstairs so he could not attend. This was his fourth year in the school and this basic consideration was overlooked.*

**Organisational**

*My child was specifically asked not to attend the swimming carnival, athletics carnival, excursions, incursions or school camp. No inclusion happening at all. I believe this was the school’s way to get us to leave. Often, permission notes would ‘accidentally’ not come home.*

**Communication**

*My child was never given support by someone that can communicate Auslan sign language with her, the language she can understand and respond to. The teachers aid knew key word signing she had learned at a special school, this is very different to Auslan and my child could not communicate in this language. It’s like having a Spanish speaking teacher when you speak English. Also, my child had had an FM system which is a microphone that would need to be attached to the teacher’s lapel and feed into her hearing aide. This was sometimes used and sometimes not. The teacher was supposed to take it off during classwork time when she was going around to individuals but it would often be left on. This was very distracting and meant my child found it hard to concentrate to do classwork.*

**Seclusion**

*Use of sole confinement and time out placing my son away from their peers and natural supports and safeguards.*

*My child was being placed in their wheelchair in the out of bounds area of the school clearly away from their friends. His friends told me this, the school did not even consider changing this, I think it suited them.*

*I dropped into school and saw my child facing a wall in a line with other students in wheelchairs. I decided right away that that was his last day in the school and we moved to the local regular class, much better.*

Family Advocacy is of the view that restrictive practices constitute a breach of human rights, regardless of the setting they occur in. We maintain that this is a breach of their human rights under a number of United Nations conventions relating to torture, the rights of the child, and the rights of persons with disability to which the Australian Government is a signatory.

Recent research has demonstrated that, in practice, restraint and seclusion are used in school settings for a variety of purposes beyond or in addition to a protective purpose, including as a means of coercion, discipline,



convenience or retaliation, and to prevent damage to property. The use of restraint or seclusion for non-protective purposes appears to be inconsistent with human rights norms.

Our viewpoint is backed by the NDIA Quality and Safeguards Commission which is working towards the reduction and eventual elimination of restrictive practices due to substantial research evidence indicating it is not a useful measure and does not improve safety of staff or the person with disability.

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<sup>10</sup>. 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.

*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 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, include:

- **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

<sup>10</sup> We note the NSW government is currently reviewing the process of Restrictive Practices Authorisation in NSW in all settings.



being taken against a student in relation to their behaviour, and following any instance of the use of physical restraint,

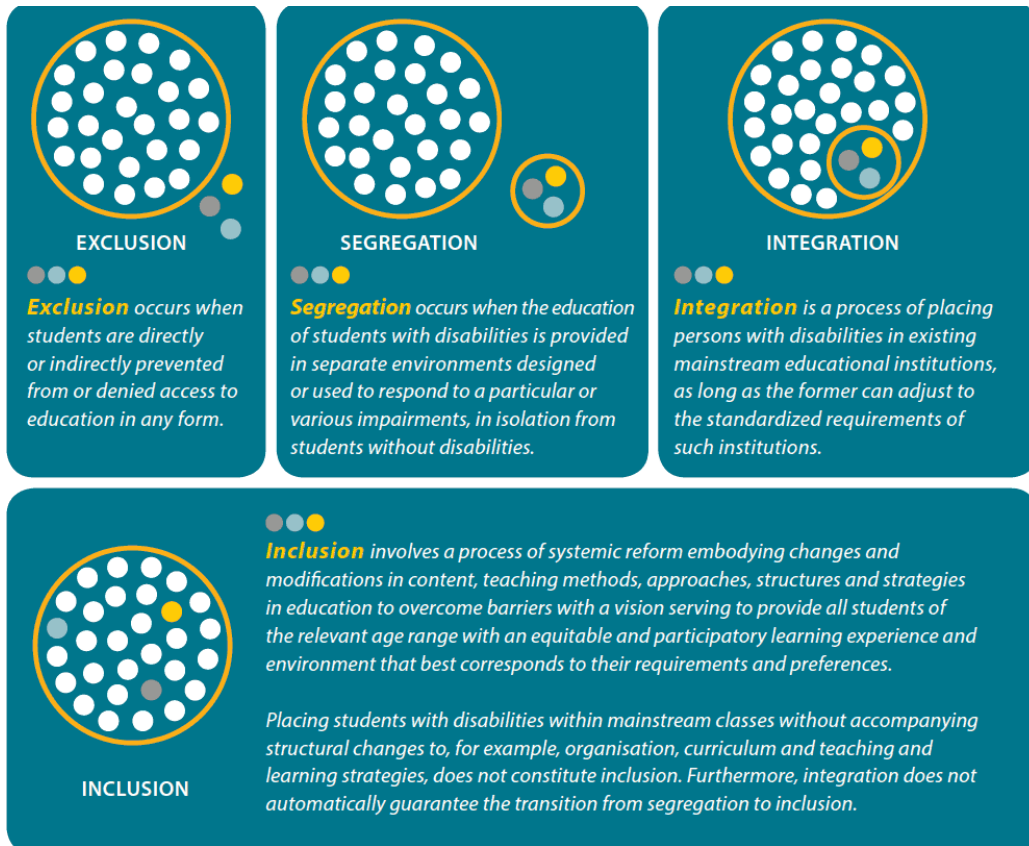
- **Proposal 26**, which includes the need for guidelines regarding the treatment of students – including students with disability – insofar as behaviour management and support strategies are concerned, and
- **Proposal 28**, which includes the need for the Department of Education to focus on ways in 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.

## What is Inclusive Education?

Our vision for inclusive education is that children learn and belong with their peers, in the same classroom, with the same teacher, working on the same curriculum along with the right supports to allow them to reach their full potential. It means having practices within a school where every child feels respected, confident and safe so he or she can learn and develop to his or her full learning potential. It is based on a system of values and beliefs centred on the interests of the student, which promotes social cohesion, belonging, active participation in learning, a complete school experience, and positive interactions with peers and others in the community.

General Comment No. 4 of Article 24 on the Right to Inclusive Education in the UNCRPD, defines inclusion in the visual depiction overleaf and states that:

*Inclusion involves a process of systemic reform embodying changes and modifications in content, teaching methods, approaches, structures and strategies in education to overcome barriers, with a vision serving to provide all students of the relevant age range with an equitable and participatory learning experience and environment that best corresponds to their requirements and preferences.*



In school, inclusion has three main domains:

- **physical** - where students with disability are present in the same environments as all other students for the same amounts of time
- **social** - where all students are welcomed and seen to belong. Students with disabilities are not separated in the classroom or playground, including through being with the support staff during times when their peers are together
- **curricular** - where all students are included in the same lesson material, with appropriate adaptations.

We 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. Includes the views of student, parent, teacher, principal. <https://www.family-advocacy.com/latest-news/als-story-launch/>
- *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: <https://www.youtube.com/watch?v=OTdRgyh1dV0>.

*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

## History - The evolution from exclusion toward inclusion

The visual on page 17 can be of assistance when explaining how we have evolved as a society. By way of historical context, special schools were not originally created in the best interests of people with disability, as is sometimes thought. Some parents advocated for the creation of schools for their children who were excluded from education at that time as they were considered by the state to be 'uneducable'. As a result, in NSW the 1957 Wyndham Report (which led to the *Public Education Act 1961*) recommended the establishment of "special schools for special children" (hereinafter "special schools"). These were students who "should not be left in the ordinary class to impede the progress of more able children and to embarrass the class teacher" and thus recommended the establishment of "institutions for their care". Here, the parallel system was born. This belief led to investment in infrastructure and resources to support these "special schools".

By the 1970s, changes overseas began to bring labelling and segregation into question. Access to education for children with disability improved in NSW in the late 1980s, when schools first formally allowed access to the regular class. Over the same period, NSW recorded a 30% decline in special school enrolments between 1985 to 1995. Interestingly, NSW saw little increase in the inclusion of students in the mainstream classes but rather substantial growth in other forms of segregated placement such as support classes, referred to as "surrogate" special schools on mainstream campuses.

Subsequent changes led to the introduction of the *Disability Discrimination Act 1992* and the Disability Standards in Education 2005, which provide a right for children with disability to access the regular class at their local school with reasonable adjustments.

In the mid-nineties, when thousands of parents of children with disability were being refused enrolment in the regular class of the local neighbourhood school, Family Advocacy coordinated a campaign called “All Kids Belong Together”, to change education policy and education infrastructure so that students with disability could expect a quality education together with their peers. A number of Australian reports and the Salamanca Statement 1994<sup>11</sup> gave rise to an emerging consensus that children with a disability have a right to attend their local school<sup>12</sup>.

Mainstream classes began to include children with disability but often, the child had to adjust to the standard requirements of the environment without appropriate support or reasonable adjustments. This is **integration**. But it is now time to evolve to **inclusion** in education.

As a nation, we have signed up to a number of commitments towards inclusive education:

- the National Disability Strategy 2010-2020 (currently being reviewed)
- the UNCRPD, Article 24 providing a right to inclusive education
- the UN Sustainability Goals 2030, Goal No.4 being to “Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all” by 2030.

If we are to honour these commitments, then an inclusive education policy in alignment with the UNCRPD’s definition of Inclusion is imperative as a first step towards this goal.

## The NSW picture

Off the back of recommendations in the 2017 NSW Parliamentary Inquiry, NSW released The Disability Strategy in 2019. Family Advocacy was part of the consultations for the better part of last year. We acknowledge that the strategy is an attempt to improve outcomes for students with disability, however it is missing an important policy piece to provide clarity to schools and parents alike.

Whilst exploring the inclusive education system in New Brunswick, Canada, the former Education Minister, Jody Carr shared with us the recipe for inclusive education to be successful is the 3 P’s:

- POLICY (and Legislation),
- PROCESS (and Implementation) and

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<sup>11</sup> Salamanca statement and framework for action on special needs education adopted by the World Congress on Special Education: Access and Quality in September, 1994 (UNESCO, 1994).

<sup>12</sup> McRae Integration/Inclusion Feasibility Study, 1996

- PRACTICE (and Support).

We see the newly released Disability Strategy as being part of the Process and Practice part of the recipe however the 'Strategy' has a long way to go in relation to authentically transforming our current education system into a workable and inclusive education system. Another critical missing piece in NSW is an evidence based Inclusive Education Policy, so that there is clarity of where we are heading. **NSW principals and parents need clear guidance with an inclusive education policy statement that adopts the UNCRPD definition of Inclusion** as stated in the diagram above. What's key about this statement is that it defines not only what inclusive education is, but what it is NOT; making a clear distinction between inclusion, integration, segregation and exclusion.

We note that Queensland has implemented such a policy in June 2018. Evidence was given to the Commission by Dr Lisa Bridle from Community Resource Unit, that families have reported the policy being very helpful to provide clear guidance to a principal who is rejecting their enrolment into their local school. Our views about an inclusive education policy for NSW extend to the other jurisdictions in Australia.

Further to this, we have encountered many school leaders and educators that hold a genuine belief that within their school context they are already offering 'inclusive practice' which is not the case. Many such professionals are currently working within special schools and support units. The Disability Strategy does not provide such professionals with any guidance to alarm them to the reality that this is not the case. We cannot understate what a significant issue this is for many students with disability across NSW and how by the very absence of an evidence based policy, we will continue to stagnate and even go backwards in our provision of an inclusive education for students with disability.

## Inclusion provides better outcomes and provides a safeguard

Both international and Australian research shows that **children with disability do better on all measures in inclusive settings, rather than disability-specific settings**<sup>13</sup>. 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**<sup>14</sup>.

<sup>13</sup> Jackson, R (2008). Inclusion or segregation for children with an intellectual impairment: What does the research say? Queensland Parents for People with a Disability; Cologon, K (2019), *Towards inclusive education: a necessary process of transformation*. Report written by Dr Kathy Cologon, Macquarie University for Children and Young People with disability Australia (CYDA)

<sup>14</sup> Jackson, R (2008), IBID

## Better academic and social outcomes for all children

A study of literature (Dr Kathy Cologon in 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 (Harvard Graduate School of Education 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<sup>15</sup>. 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

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<sup>15</sup> Giangreco, MF, Dennis, R, Cloninger, C, Edelman, S, & Schattman, R. (1993). "I've counted Jon": Transformational Experiences of Teachers Educating Students with Disabilities. *Exceptional Children*, 59(4), 359-372; Hehir, T, & Katzman, LI. (2012). *Effective inclusive schools designing successful schoolwide programs*. San Fransisco: Jossy-Bass.

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<sup>16</sup>. 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<sup>17</sup>. It follows that the sense of belonging and ability to contribute that comes from inclusive education will lead to positive mental and physical health.

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<sup>16</sup> <https://theconversation.com/australia-lags-behind-the-evidence-on-special-schools-41343>

<sup>17</sup> Report from the Office of the Advocate for Children and Young People 2018.



## Segregation is harmful

Segregation harms students with disability in the long term, irrespective of good intentions. It is an unintended consequence of an historical and unsubstantiated practice.

We now know from the Royal Commission into Institutional Responses to Child Sexual Abuse<sup>18</sup>, segregated settings are harmful and are a factor that heightens risk of abuse of children with disabilities. A research project commissioned by that Royal Commission presented about the prevalence and prevention of sexual abuse of children with disabilities in institutional contexts, found that:

*'Segregation and exclusion in closed institutional contexts away from public scrutiny leaves children (and adults) with disability at heightened risk of violence and harm including sexual abuse. Further, when children with disability are stereotyped as dependent and passive and unable to 'speak up', they are at heightened vulnerability to being segregated, abused, overlooked and not heard. The Royal Commission into Institutional Responses to Child Sexual Abuse recognised early on the likely particular vulnerabilities of children with disability and the institutional contexts which they encounter.'*<sup>19</sup>

The research also found:

*"The current approach in Australia tends to focus on children with disability as a special group. In our view, there are distinct dangers in doing so. The most obvious is that responsibility for special groups is thought to reside 'outside' the mainstream. The converse is that the mainstream is 'relieved' of their responsibilities for children with disability. This is contrary to Australia's obligations under CROC and CRPD. Child safe organisations must be child safe for all children. This means that in child safe organisations due diligence must be paid to ensuring any particularities relevant to children with disability are understood and responded to using evidence-informed strategies, practices and behaviours."*

We support this analysis and believe it is directly applicable to the school setting.

When looking at the 'factors that increase risk'<sup>20</sup> and 'drivers for abuse' (NDS, 2015), the research noted that 'impairment does not of itself make a child or young person vulnerable' (p 3). Robinson (2012) noted that 'other features in young people's environments, relationships and the cultures of their communities may have a greater part to play in how vulnerable (or otherwise) children with disability are to abuse and neglect than does

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<sup>18</sup> Royal Commission into Institutional Responses to Child Sexual Abuse Final Report in 2017

<sup>19</sup> Prof Gwynnyth Llewellyn, Disability and child sexual abuse in institutional contexts, The University of Sydney Faculty of Health Sciences, 2017.

<sup>20</sup> Robinson, S (2012) *Enabling and protecting: proactive approaches to addressing the abuse and neglect of children and young people with disability* Children with Disability Australia, Clayton, Victoria (p 7).



their impairment' (p 12) . This is welcome and in line with international understandings of disability in ICF (WHO, 2013) and CRPD (UN, 2006).

Other risk factors in relation to disability and the risk of sexual victimisation were mentioned in the grey literature:

- children with disability who require assistance with intimate care activities<sup>21</sup>
- children and young people who require behaviour modification or management<sup>22</sup>
- children who 'live or spend significant time in settings where they are expected to be always compliant and well behaved'<sup>23</sup>; and
- children with communication, speech difficulties or high behavioural support needs<sup>24</sup>.

All of these risk factors are prevalent in segregated education settings. As previously discussed, more than sixty years later, we now know these segregated settings of special schools and their surrogate support units in mainstream settings were not based on best practice or evidence. There is no evidence base to continue to support segregation. Current evidence and values of community inclusion no longer support this harmful model of segregation.

## Segregation is costly

Whilst our position on inclusive education is largely about issues other than funding, it is worth noting that there is disparity in terms of funding. The Department of Education and Training (Cth) revealed in their submission (p4) to the aforementioned 2015 Senate Inquiry:

“Students with disability at a mainstream school attract a loading of 186 per cent of the base per student amount; those at a special school attract a loading of 223 per cent.”

We would encourage the Commission to obtain up to date figures in this regard.

There are also 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

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<sup>21</sup> Robinson, S (2015), 'Preventing abuse of children and young people with disability under the National Disability Insurance Scheme: A brave new world?', *Australian Social Work*, 68(4): 469-482.

<sup>22</sup> Frohmader, C & Sands, T (2015) *Australian Cross Disability Alliance (ACDA) Submission to the Senate Inquiry into Violence, abuse and neglect against people with disability in institutional and residential settings*. Australian Cross Disability Alliance, Sydney.

<sup>23</sup> Robinson, S (2012) *Enabling and protecting: proactive approaches to addressing the abuse and neglect of children and young people with disability* Children With Disability Australia, Clayton, Victoria (p.12).

<sup>24</sup> Children with Disability Australia (2015) *Issues Paper 9 – Addressing the risks of child sexual abuse in primary and secondary schools* Submission to Royal Commission into Institutional Responses to Child Sexual Abuse Series Editor, Institution, Victoria.

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<sup>25</sup>.

## Rights of the Child vs. Parent Choice

Many people argue against inclusive education on the basis that parents should have a choice to send their child with disability to whatever setting they see fit. However, while parallel systems exist, families are often pushed toward the exclusionary setting through an informal process of gatekeeping by school principals or staff. Parent demand for special schools and units comes from numerous sources, including:

- experience in early intervention has led to the belief their child can only learn in one to one situations with a skilled adult
- a lack of choice. Often parents are not provided with information about the possibility of a regular class enrolment for their child. Only the segregated options are offered
- parents who have 'battled' teachers and schools that are unwelcoming of their child
- low expectations of children with disability, including the deficit model of disability and the notion that a person must be 'ready' to participate with their peers. 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.
- Many families have also experienced the current education system let their child down or come to harm due to the unwillingness, lack of skill and funds to instead support them well.

All reasons clearly point to an inadequate system that continues to fail students with disability leaving many families choosing the 'least worst option'.

Demand for segregated settings also comes from teachers and schools. Where a support class or special school exists, students will be found to fill it. Regular class teachers then feel able to indicate that there is a

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<sup>25</sup> A more thorough explanation is outlined in the aforementioned 2015 Senate Enquiry, see Chapter 3: The true costs of difficulties with accessing education.

'better' place for students with different learning needs. The inclusion of students threatens the status quo due to fear of the unknown.

Other recognised influential factors can be the opinion of the families GP, obstetrician, paediatrician, allied health professional, Early Childhood professional, Tertiary leaders, other parents, or society as a whole.

A recent study to gain a deeper understanding of the decision-making process of parents who transferred their child from regular to special school found that parents' decision-making is influenced by negative experiences in the mainstream and high expectations for segregated schooling. Emotional strain in regular schools was strongly linked to an exclusionary school culture, and there was an important association between learning and well-being<sup>26</sup>.

Parents are making these "choices" unwittingly, not really understanding the long term consequences. Here, we refer to Dr Bob Jackson's Life pathways diagram from the introduction to this submission. On the basis of this and the previous discussion that inclusion provides better outcomes and is a safeguard, whilst segregation is harmful and costly, we can conclude that it is in the best interests of the child to have an inclusive education.

We remind the Commission that the right of the child override the right of the parent in accordance with the UN Convention on the Rights of the Child. In any other area, our government puts what is in the best interests of the child based on the evidence, except in the education sector. The Government passed laws to enforce the wearing of seatbelts and immunisations. Yet when it comes to schools, the evidence is ignored and parents are given "choice" over what is best for their child.

We recommend our governments at State, Territory and National level, pass legislation to ensure inclusive education is a requirement in Australia. We also recommend the gradual reduction of and eventual closure of special schools and support units. We believe this can be accomplished by grandfathering existing segregated settings whilst working through the essential elements of transforming our current educational settings.

## The gradual phasing out of special schools

Family Advocacy would like to impress upon the Commission, that the UNCRPD must be the starting point for its investigation, in making its recommendations to ensure that people with disability are free from violence, abuse, neglect and exploitation.

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<sup>26</sup> Mann, Glenys, Cuskelly, Monica, & Moni, Karen (2018) An investigation of parents' decisions to transfer children from regular to special schools. *Journal Of Policy And Practice In Intellectual Disabilities*, 15(3), pp. 183-192.

As previously mentioned, General comment No. 4 (2016) of Article 24 of the UNCRPD: Right to inclusive education, provided detailed definitions and guidance on what inclusive education is and what it is not. The clarity in this jurisprudence must be adopted by the Commission and the right to inclusive education must not be contested. This definition does not include special schools or support units within mainstream schools.

We would argue when the Terms of Reference refer to the prevention against violence, abuse and neglect, this definition must be adopted. We do not see this Royal Commission as a forum for a debate about “if” inclusive education should proceed and for special schools to have to defend their existence. Rather “when” inclusive education will be implemented and “how” we best proceed to create definitive plans to phasing out of special schools and other segregated settings.

We caution the Commission to be wary of the emergence of tribalism within the special education sector as there is a strong vested interest in continuing to offer special schools for this educator cohort. There is also a strong belief within this section of the Department that this is the best option for certain students as many special educators we have encountered are unable to shift their thinking to the possibility of some student's ability to thrive within a regular education system. This largely speaks to assumptions held to this group of students and the medical model approach to disability more broadly. It's important to add that this can be done as it is already being done in many jurisdictions around the world.

As inclusive education academic, Roger Slee<sup>27</sup> asserted:

*“the development of inclusive education policies has been constrained by the adhesion of traditional regular and special education imperatives. The fragmentation of educational policy-making presses us towards exclusion; and the protection of professional interests reinforces individual pathologies and creates further exclusionary pressures. ....inclusive education is not a linear progression from 'special educational needs' and we must endeavour to understand the very different nature of these knowledge bases.”*

Slee also asserts that “special education needs” is a euphemism for the failure of schooling to meet the needs of all children , a discursive tactic to depoliticise school failure<sup>28</sup> and legitimise the professional interests of special educators<sup>29</sup>. These are the educators not wanting to change the status quo as this is what they know and is comfortable. We understand their position as nobody likes change. However, we urge the Commission to support the scientific method and support an evidence based policy. We urge the Commission to look at the facts.

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<sup>27</sup> Roger S Lee & Julie Allan, Excluding the Included: A reconsideration of inclusive education, *n* International Studies in Sociology of Education 11(2):173-192 · July 2001

<sup>28</sup> Barton, L. (Ed.) (1987) The Politics of Special Educational Needs. Lewes: Falmer Press.

<sup>29</sup> Tomlinson, S. (1996) Conflicts and Dilemmas for Professionals in Special Education, in C. Christensen & F. Rizvi (Eds) Disability and the Dilemmas of Education and Justice. Buckingham: Open University Press.

The fact is, Australia is one of the poorest employers of people with disability in the world. We are ranked 21 out of 29 of the OECD countries. In 2018, just over a quarter (28.3%) of all Australians with disability of working age were employed full-time compared with more than half (54.8%) of those without disability (also similar to 2015)<sup>30</sup>. One-third (33.4%) had completed year 12 or equivalent compared to 84.5% for all students<sup>31</sup>. And people with disability are overrepresented in the criminal justice system (almost 50%)<sup>32</sup>.

These statistics show the current education system is not producing good outcomes for people with disability. The system is not working. There are no grounds to keep the status quo. With what we know on the school to prison pipeline, statistics like these show a broken education system. If the existence of special schools and support units were such a successful model for education, then these statistics should be a lot better. We need to avoid re-runs. “Special education” needs a straightjacket. As a society, we need to dare ourselves to think otherwise<sup>33</sup> and confess to our ignorance that the labelling of “special” and the setting of “special” has wounded and done a great disservice to people with disability.

We stipulate we are not opposed to what special schools are attempting to achieve and see these educators playing a key role in the regular educational system. As previously stated, special schools originated as the only option for children with disability to receive an education. There are a lot of vested interests in staff and bricks and mortar which would indicate there will be many professionals in special schools threatened at the suggestion of phasing out these settings.

We are not suggesting the instant closure of all special schools. Rather a transitional plan that is phased over a reasonable length of time. We know in other jurisdictions such as Italy and New Brunswick, the transition of closing special schools was done in stages and involved utilising the expertise of the special education teachers. **It is not the teachers, but the setting that needs to change for all the reasons stated throughout this submission.**

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<sup>30</sup> Australian Bureau of Statistics

<sup>31</sup> <https://www.abs.gov.au/ausstats/abs@.nsf/mf/4221.0>

<sup>32</sup> Human Rights Watch Report “I Needed Help, Instead I Was Punished”, Abuse and Neglect of Prisoners with Disabilities in Australia, Australian Human Rights Commission, 6 February, 2018. Also see Eileen Baldry, Leanne Dowse and Melissa Clarence, “People with mental and cognitive disabilities: pathways into prison” (background paper for the Outlaws to Inclusion Conference, The University of New South Wales, School of Social Sciences and International Studies, February 2012).

<sup>33</sup> Roger Slee & Julie Allan (2001) Excluding the included: A reconsideration of inclusive education, *International Studies in Sociology of Education*, 11:2, 173-192

## 2019 Recommendations from UN to Australia

In relation to inclusive education, the UN Committee on Australia in its 2019 Concluding Observations in relation to Article 24, reveal increased concerns with Australia's failure to progress inclusive education and alarming growth of segregation of students with disabilities contrary to Article 24 and General Comment No.4.

Notably, this time around, the Committee has provided more specific recommendations (at paragraph 46 of the 2019 Concluding Observations), including the following, which the Committee expressly stated should be read in line with the Committee's 2016 General Comment No. 4 (the Right to Inclusive Education) and targets 4.5 and 4.a of the Sustainable Development Goals:

- that Australia develop a national Action Plan for Inclusive Education;
- that Australia address the increasing rate of segregation, seclusion and isolation of students with disabilities in education;
- that Australia redirect adequate resources to a nationwide inclusive education system for all students; and
- that Australia improve the collection of data on the numbers of students with disabilities, including data about "students who do not qualify for an adjustment, are unable to enrol in local mainstream schools, educational attainment and completion, suspension and expulsion rates and the use of restrictive practices and bullying".

The Committee also called for an end to the practice of detaining and restraining students with disabilities<sup>34</sup>. The Committee's concerns in relation to the implementation of Article 24 and inclusive education were also evident in statement made by Committee Chairperson Mr Danlami Umaru Basharu<sup>35</sup> specifically questioned Australia about "reforming the Australian legal and policy framework, including the [*Disability Discrimination Act*] 1992, to ensure that the rights of students with disabilities to inclusive education are upheld, and there is immediate and progressive implementation of Article 24 and General Comment No.4, including specific measures to address cultural and attitudinal barriers within education departments and at school administration levels and ensure adequate training of and support to school administrators and educators, for the inclusion of students with disabilities."

Committee Member and law Professor, Dr Markus Schefer noted that "in education, the trend of inclusion seems to be in decline" in Australia<sup>36</sup> and that "the Melbourne Declaration on Education Goals for Young Australians

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<sup>34</sup> (paragraph 28(e) of the 2019 Concluding Observations).

<sup>35</sup> (at 1.31.34 of the UN webcast Consideration of Australia (Cont'd) – 500th Meeting 22nd Session Committee on Rights of Persons with Disabilities – 13 September)

<sup>36</sup> (at 0.44 minutes of the UN webcast Consideration of Australia – 499th Meeting 22nd Session Committee on Rights of Persons with Disabilities – 12 Sep 2019)

does not explicitly identify students with disabilities as a priority, and it does not commit explicitly to inclusive education”<sup>37</sup>. He also asked “is [Australia] proposing to address these issues within the Melbourne Declaration or within any other framework?”. Importantly, Dr Schefer took specific issue with the Australian Government’s “views on what ‘inclusive education’ means and that it can involve choice of the parents of segregated education” and stated that “this view stands in stark contrast to what this Committee has consistently defined ‘inclusive education’ to mean”.

## Recommendations to safeguard children from abuse and neglect in schools

*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**.

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<sup>37</sup> (at 1.36 of the of the UN webcast Consideration of Australia (Cont’d) – 500th Meeting 22nd Session Committee on Rights of Persons with Disabilities – 13 September).

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<sup>38</sup> 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 holistic 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 from NSW government **to end segregation and exclusionary practices** and to undertake development of a

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<sup>38</sup> Salamanca Statement and Framework for Action on Special Needs Education 1994.



comprehensive plan to revolutionise our system. This will involve **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 holistic and empowering conception of education. This refers to students with disability but is relevant to all students.

We acknowledge this more holistic philosophy was no doubt the intention behind the Melbourne Declaration 2008 (currently under review) 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, particularly in relation to the Gonski funding reforms, are very disappointing. Further, children with disability were hardly mentioned in the Declaration and this must change in the upcoming review.

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 have shared show collaborative processes are an integral way to bring about best practice and positive student outcomes. Through a funding grant from The 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<sup>39</sup>

### **Recommendation 7: Tackling Barriers to Participation.**

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<sup>39</sup> Gonski, D, (2011) Review of Funding for Schooling – Final Report Dec 2011; Gonski, D, (2018) *Review to Achieve Educational Excellence in Australian Schools*, 2018

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 so 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 s45 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 under 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”<sup>40</sup>.

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<sup>41</sup>.

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

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<sup>40</sup> European Agency for Development in Special Needs Education, 2012

<sup>41</sup> Cologon, K. (2012). Confidence in their own ability: Postgraduate early childhood students examining their attitudes towards inclusive education. *International Journal of Inclusive Education*, 16(11), 1155-1173.

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<sup>42</sup>.

### **Recommendation 11 - Plotting the Journey to Inclusion.**

As we have already argued, 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.

## **Conclusion**

Inclusive education is about setting children with disability up to achieve and have a meaningful and safe life.

Unfortunately, the current education system is broken. A segregated system leads to a segregated life.

The vast number of national Statements, Declarations, Strategies and UN Conventions Australia has signed up to over decades plus the string of parliamentary inquiries at all levels of government affirm that we are failing children with disability (and their families). It is time for our government's (State and Federal) to show leadership and think beyond election cycles.

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<sup>42</sup> Booth, T, Ainscow, M (2011) Index for Inclusion: Developing Learning and Participation in Schools.

There is no linear progression from “special education” to inclusive education”. We acknowledge that our government’s have made attempts for our schools to be “inclusive” with good intentions but this has been more of a “bolt on” approach. Using what we had and adding in the “special needs”. This has been ineffective, harmful and costly. This is evidenced by the many stories of abuse and neglect in schools we have shared throughout this submission.

The right to turn up at your local school gate is not being honoured across the board but only in pockets of our society. Families have no genuine pathways to remedy the discrimination their child is subject to, except to move them from a regular to a segregated setting. There is no real “parent choice” here, rather the failings of the system funneling them there. More like “parent concession”.

A transformational solution is required. A fundamental paradigm shift.

Moving to more inclusive ways of working therefore requires shifts in policy-makers’ values and ways of thinking, which enable them to provide a vision shaping a culture of inclusion, through to significant changes within schools and classrooms. And, of course, this has to involve the wider community.

We ask the Royal Commission to be strong in its assertions and recommend this transformation towards a system of genuine inclusive education as defined by General Comment No.4 on Article 24 of the UNCRPD.

We invite the Commission to ask: As a nation, do we continue to support an outdated ineffective dual education system, whose existence is based on a historical habit of segregation rather than best practice? Do we continue to uphold a system that sends a strong message to a child (and their family) that they are seen as something broken or needing to be fixed, that subjects them to rejection, exclusion, isolation, stigmatisation and pain?

Or do we use this moment in time to evolve as a society and reconstruct a system that is based on evidence of what is best for the child, and sends a clear message to the child that they are unique, loved, respected, accepted, belong, have value and can make a contribution to society?

We cannot let the term “economic rationalism” override the “moral imperative” for inclusive education. The term “lack of resources” cannot be used as an excuse to not go ahead with what is right. In any event, resources are always just a matter of priorities. We have the resources, we just have to reshuffle the resources we already have. The “moral imperative” for inclusive education ought to dictate where the resources go. As our family stories have shown, where there is a will, there is a way. Culture and mindset are the most important agents of success for inclusion and resources are not the true barrier.

Our social and moral base says we are all equal and should have the same opportunities, regardless of our abilities or what supports are required. And children that learn together, learn to live together. In the long run, this

provides a natural safeguard for children with disability as they grow up in a world that has learned to value diversity.

We need a system that works for ALL children.

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