

Hear Our Voices

Current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of support

Children with Disability Australia
Submission – August 2015

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Introduction

It is the view of Children with Disability Australia (CDA) that the current education system in Australia is failing to adequately meet the needs of students with disability. It is recognised that some students with disability have positive education experiences with good academic and social outcomes but this is by far the exception.

The breadth of disadvantage students with disability must contend with in the current education system is profound. At CDA we are inundated with reports of poor and shameful education experiences. A typical school experience for students with disability involves discrimination, limited or no funding for support and resources, inadequately trained staff, a systemic culture of low expectations, exclusion and bullying. There are increasing incidents of restraint and seclusion reported to CDA, which are seen as a clear consequence of a system in crisis. Failings have become entrenched in the education system and the urgency of delivering system wide solutions is now acute.

Despite the high value and strong evidence base linking educational attainment and improved life outcomes, students with disability are frequently denied educational opportunities. Even though there have been significant advances in recognising and affording people with disability rights and equal opportunities, ableist attitudes are still entrenched in the Australian community and very much shape the typical school education experiences of students with disability.

It is common for students with disability to not be afforded the status of a learner. CDA believes there is an inherent assumption held by many, often subconsciously, that children with disability have limited or no capacity to learn. Education programs and experiences are then developed on a fundamental basis of low expectations for early education, school and assumed life outcomes for the child concerned. It is currently the sad reality that more often than not, families must fiercely advocate or 'fight' to enable basic education opportunities to be afforded to their child. It is the experience of CDA that it is rare for students to be provided with a truly inclusive education experience. Attitudinal change is therefore imperative.

It needs to be recognised that the difficulty of obtaining adequate funding to support students with disability plays a major role in the prolific incidence of poor education experiences. Funding inadequacies are a major barrier to the provision of essential resources and equipment, individual support, training and access to other professional expertise. These are all essential components in the provision of an adequate and quality education to students with disability.

There have been significant reviews of education in recent years in relation to school funding, early childhood, curriculum, parent engagement and teacher education. These have contributed to a greater recognition of the diversity and complexity of students, including students with disability. However, although this broad review and reform is occurring, the direct experience of students with disability today is still characterised by the same barriers and overwhelmingly poor experiences and outcomes as those who began their education journey 20 years ago.

While there have been modest investments in reform through initiatives such as the *More Support for Students with Disabilities National Partnerships*, the ambition has been limited and these programs remain 'bolt-on' programs outside the core funding and policy model for education. They do not fundamentally change the way education is delivered for students with disability.

Every classroom in Australia is likely to have a student with disability. Australia must ensure students with disability are afforded their rights to an education. Teachers also want and need to be well

equipped to teach all students. To this end, it is crucial that they are appropriately resourced, trained and supported. It is time that schools and school communities welcomed students with disability, rather than view students as a burden or place them in the 'too hard basket'. For this to happen we need cultural change that is mandated by government with clear goals, positive policy commitments and adequate resourcing.

While around 90 per cent of students with disability attend mainstream schools across all systems in Australia, the poor outcomes being achieved demonstrate that simply being counted inside the school gate does not deliver a quality education for these students. Furthermore, the impact on life outcomes for these young people is profound. There is an urgent and critical need for education reform for students with disability. Young people with disability will have few options beyond welfare and will be denied meaningful participation as adults unless this much needed reform of our education system occurs.

CDA welcomes the opportunity to provide a submission to this important Inquiry. It is noted that the areas of this Inquiry have been reviewed in previous education inquiries, often on numerous occasions. Copies of various CDA submissions pertaining to education and students with disability are provided in appendix A for consideration by the Committee.

It is hugely concerning that no meaningful reform regarding education provision for students with disability has occurred to date. The common education experience of students with disability is poor, at times harmful and definitely not providing these children and young people with the skills, knowledge and confidence to be able to contribute meaningfully to our community post school. The education system is unacceptable for students with disability. It is sincerely hoped that clear and coordinated action finally occurs following this Inquiry. CDA would welcome the opportunity to provide further evidence to the Inquiry.

Children with Disability Australia

CDA is the national representative organisation for children and young people with disability, aged 0-25 years. The organisation is primarily funded through the Department of Social Services (DSS) and is a not for profit organisation. CDA has a national membership of more than 5000 with the majority being families.

CDA provides a link between the direct experiences of children and young people with disability to federal government and other key stakeholders. This link is essential for the creation of a true appreciation of the experiences and challenges of children and young people with disability.

CDA's vision is that children and young people with disability living in Australia are afforded every opportunity to thrive, achieve their potential and that their rights and interests as individuals, members of a family and their community are met.

CDA's purpose is to advocate systemically at the national level for the rights and interests of all children and young people with disability living in Australia and it undertakes the following to achieve its purpose:

- **Listen and respond** to the voices and experiences of children and young people with disability;
- **Advocate** for children and young people with disability for equal opportunities, participation and inclusion in the Australian community;

- **Educate** national public policy-makers and the broader community about the experiences of children and young people with disability;
- **Inform** children and young people with disability, their families and care givers about their citizenship rights and entitlements; and
- **Celebrate** the successes and achievements of children and young people with disability.

Since CDA's establishment in 2009 the organisation has been inundated with concerns regarding education. Consequently, CDA has undertaken extensive advocacy to progress greater understanding and awareness of the direct experiences of students with disability and the critical need for reform in education. This has included contribution to a broad range of inquiries, consultations and membership of related advisory bodies. These include:

Participation in advisory committees and national forums:

- Attorney-General Roundtable on the United Nations response to Australia's performance under the *Convention on the Rights of the Child*;
- Connections: Mental health and wellbeing resource for the Early Childhood Education and Care Workforce Project – National Reference Group;
- Department of Education, Employment and Workplace Relations (DEEWR) - Early Childhood Quality and Workforce Group;
- e-Learning Resource on *Disability Standards for Education 2005* Working Group;
- Global Partnership on Education;
- National Children and Family Roundtable – Ministerial Advisory Committee;
- National Definition for Students with Disability Expert Advisory Group – DEEWR;
- National Disability Insurance Scheme Expert Advisory Group – Quality Standards and Safeguards;
- National Disability Strategy Implementation Reference Group;
- National Safe Schools Project;
- National Seminar on Schools and Parents Working Together to Address Bullying;
- Ministerial roundtables on teacher education and issues affecting students with dyslexia;
- Schools Disability Advisory Council – Ministerial Advisory Committee;
- Schools and Youth and Early Childhood Education and Care Biannual Stakeholder Forum; and
- Victorian Equal Opportunity and Human Rights Commission Committee 'Held back: The experiences of students with disability' expert advisory group.

Submissions:

- *Australian Education Bill 2012*;
- *Australian Education Bill 2013* (two submissions provided);
- Draft Indigenous Education Action Plan 2010-2014;
- Draft Ministerial Council on Education, Employment, Training and Youth Affairs Action Plan 2009-2012;
- Productivity Commission Childcare and Early Childhood Learning (two submissions provided);
- Productivity Commission Schools Workforce draft report;
- National Quality Framework for Early Childhood Education and Care;
- Regulation Impact Statement for Early Childhood Education and Care Quality Reforms;
- Removal of the command and control features of the *Australian Education Act 2013*;
- Review of *Disability Standards for Education 2005* (two submissions provided);
- Review of Funding for Schooling (two submissions provided);
- Review of the National Curriculum;

- Senate Inquiry and report on the development and implementation of national school funding arrangements and school reform;
- Senate Inquiry into Teaching and Learning;
- Senate Inquiry into Violence, abuse and neglect against people with disability in institutional and residential settings;
- Teacher Education Ministerial Advisory Group;
- United Nations Committee on the Rights of the Child general comment on the rights of adolescents; and
- United Nations Committee on the Rights of Persons with Disabilities day of general discussion on the right to education for persons with disabilities.

Issues papers:

- Belonging and connection of school students with disability (appendix B); and
- Inclusion in education: Towards equality for students with disability (appendix C).

Reports:

- CDA national survey on educational support for students with disability;
- The emerging picture: Education and the National Disability Insurance Scheme interface – prepared for the Australian Government Department of Education and Training;
- CDA National Education Summit report;
- Parent-school engagement paper – prepared for the Australian Government Department of Education and Training;
- Positive education experiences - prepared for the Australian Government Department of Education and Training;
- Post school transition of students with disability; and
- Special schools and the Australian Government Education reform - prepared for the Australian Government Department of Education and Training.

Events:

- Disability Action Day - Parliament House, Canberra – co-hosted with the Australian Education Union;
- Pre-budget forum on the education of students with disability - Parliament House, Canberra;
- National Education Summit – Sydney;
- Education Reform Leaders Summit – Sydney; and
- Numerous family roundtable and discussion forums.

Human Rights Framework

The United Nations *Convention on the Rights of Persons with Disability 2006* (CRPD) and the *Convention on the Rights of the Child 1989* (CRC) clearly establish the right of children with disability to receive a quality, free and inclusive education. Australia has signed and ratified both of these international human rights treaties, thereby demonstrating its commitment to protect and respect the rights, standards and obligations contained in both international treaties.

Accordingly, Australia must ensure that its domestic laws, policies and programs are compatible with the rights contained in these treaties. Under the CRC, article two states that:

State Parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international

*co-operation.*¹

Specific reference is made in Article 23 of to the rights of children with disability to “enjoy a full and decent life, in conditions, which ensure dignity, promote self reliance and facilitate the child’s active participation in the community.”²

Articles 28 and 29 stipulate a child’s rights in relation to education. These include:

- *Compulsory and free primary school education;*
- *Encouragement of the development of different forms of secondary education, including general and vocational education, making them available and accessible to every child, and taking of appropriate measures such as the introduction of free education and offering financial assistance in the case of need;*
- *Accessible higher education to all on the basis of capacity by every appropriate means;*
- *Accessible and available educational and vocational information and guidance to all children; and*
- *Development of the child’s personality, talents and mental and physical abilities to their fullest potential.*³

The CRPD refers in article seven to the obligation of “State Parties to take all necessary measures to ensure the full enjoyment of children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.”⁴

Article 24 specifically relates to education:

State Parties recognize the rights of person with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, State Parties shall ensure an inclusive education system at all levels and life long learning directed to:

1. *The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental rights and human diversity;*
2. *The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential; and*
3. *Enabling persons with disabilities to participate effectively in a free society.*⁵

Australia has also implemented domestic legislation and policy aimed at upholding the human rights of children and young people with disability. The *Disability Discrimination Act 1992* (DDA) is the primary legislative mechanism for eliminating discrimination on the basis of disability. It covers a range of areas, including education, employment and access to premises.⁶ Further state and territory legislation exists with similar objectives.

The DDA is the overarching legislation for the *Disability Standards for Education 2005* (DSE or the Standards). The Standards aim to ensure students with disability are able to access and participate in education on an equal basis to students without disability.⁷ The DDA makes it unlawful to contravene the Standards, and compliance with the Standards is taken to be compliance with the DDA.

¹ United Nations General Assembly 1989, *Convention on the rights of the child*, article 2.

² United Nations General Assembly 1989, *Convention on the rights of the child*, article 23.

³ *Ibid*, articles 28, 29.

⁴ United Nations General Assembly 2006, *Convention on the rights of persons with disabilities*, article 7.

⁵ *Ibid*, article 24.

⁶ *Disability Discrimination Act 1992 (Cth)*.

⁷ *Disability Standards for Education 2005 (Cth)*.

A key policy framework regarding the education of students with disability is the *National Disability Strategy 2010-2020*, endorsed by the Council of Australian Governments (COAG) in 2011. The Strategy sets a 10 year reform plan for 2010-2020 for all Australian governments to address the barriers faced by Australians with disability. It aims to ensure that mainstream services and programs including healthcare, housing, transport and education are accessible and address the needs of people with disability. The Strategy has an important role to play in ensuring that the principles of the CRPD are integral to the policies and programs which affect people with disability in Australia. 'Learning and skills' is one outcome area of the Strategy that focuses on improving educational programs and outcomes for people with disability.

The 'Learning and skills' section recognises the present gaps in education access and attainment for students with disability. The four policy directions identified are:

- *Strengthen the capability of all education providers to deliver inclusive high quality educational programs for people with all abilities from early childhood through adulthood;*
- *Focus on reducing the disparity in educational outcomes for people with a disability and others;*
- *Ensure that government reforms and initiatives for early childhood, education, training and skill development are responsive to the needs of people with disability; and*
- *Improve pathways for students with disability from school to further education, employment and lifelong learning.*⁸

There is a breadth of legislation and policy that relates to the provision of education to students with disability. These include early childhood education frameworks and programs, anti-bullying policy, practice guidelines, funding arrangements, higher education legislation and policy et cetera. However, the education of students with disability is frequently positioned as a peripheral consideration, with many programs and initiatives being bolt-on, rather than embedded in all legislation and policy.

Responses to the Inquiry's Terms of Reference

A. Current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of support

Available statistics and research demonstrate stark gaps in educational access, attainment, performance and outcomes for children and young people with disability in Australia:

- 7.3% of all children and young people aged 0-24 years in Australia have an identified disability;⁹
- 90.2% of students with disability attend mainstream schools;¹⁰

⁸ Council of Australian Governments 2011, *National Disability Strategy 2010-2020*, Commonwealth of Australia, Canberra, pp. 54-56.

⁹ Australian Bureau of Statistics 2013, 'ALL PERSONS, Disability status, by age and sex—2012,' *Survey of disability, ageing and carers 2012*, Commonwealth of Australia, Canberra.

¹⁰ Australian Bureau of Statistics 2012, 'Children with Disability at School,' *Profiles of Disability 2009*, Commonwealth of Australia, Canberra.

- 24.3% of students with disability attend disability specific classes within mainstream schools;¹¹
- 65.9% of students with disability attend regular classes in mainstream schools;¹²
- 9.9% of students with disability attend special schools;¹³
- 76% of students with disability attend government schools;¹⁴
- 24% of students with disability attend non-government schools;¹⁵
- 30% of people with a disability do not go beyond Year 10, compared to 20% of people without a disability;¹⁶
- 36% of people aged 15-64 years with reported disability had completed year 12 compared to 60% of people without a disability;¹⁷
- 15% of people aged 15-64 with disability had completed a bachelor degree or higher compared to 26% of people without disability;¹⁸
- 38% of young people aged 15–24 years with disability either work, study, or do a combination of both on a full time basis compared to 56% of young people without disability;¹⁹
- 42% of young people with disability neither work nor study (there is no comparative data available for young people without disability);²⁰
- 20% of young people with disability either work or study on a part time basis (there is no comparative data available for young people without disability);²¹
- People with disability in Australia are only half (50%) as likely to be employed as people without disability;²² and
- 45% of people with disability in Australia live in or near poverty.²³

It is also critical to note that current available data about students with disability is inadequate with their being no national statistics on:

- Rates of enrolment in distance education and home schooling;
- Part time attendance;
- Rates of suspension and expulsion;
- Rates and circumstances of restraint and seclusion in schools;
- Proportion of students with disability with an established individual education plan;

¹¹ Australian Bureau of Statistics 2012, *Children with Disability at School*.

¹² Ibid.

¹³ Ibid.

¹⁴ Productivity Commission 2015, *Report on government services: Volume B childcare, education and training*, Commonwealth of Australia, Canberra, Table 4A.31.

¹⁵ Ibid, Table 4A.31.

¹⁶ Australian Bureau of Statistics 2013, 'Table 7 PERSONS AGED 15 YEARS AND OVER, LIVING IN HOUSEHOLDS, Disability status, by selected social characteristics–2012,' *Disability, Ageing and Carers, Australia: Summary of Findings, 2012*, Commonwealth of Australia, Canberra.

¹⁷ Ibid.

¹⁸ Australian Bureau of Statistics 2012, 'Disability - Education and Employment,' *Disability, Ageing and Carers, Australia: Summary of Findings*, Commonwealth of Australia, Canberra, viewed 13 March 2015, <http://goo.gl/yj30dj>.

¹⁹ Australian Bureau of Statistics 2012, *Australian Social Trends*, Commonwealth of Australia, Canberra, viewed 17 March 2015, <http://goo.gl/u0oAlp>.

²⁰ Ibid.

²¹ Ibid.

²² PricewaterhouseCoopers 2012, *Disability expectations: Investing in a better life, a stronger Australia*, Australia.

²³ Ibid.

- Academic outcomes of students who have a modified curriculum and do not follow the standard curriculum;
- Bullying prevalence; and
- Post school outcomes for students with disability – immediately and in the first three years following school.

Recommendation 1: Collection of national data regarding rates of enrolment in distance education and home schooling of students with disability, including the reasons for enrolling in these options.

Recommendation 2: Collection of national data regarding rates of part time attendance in schooling of students with disability.

Recommendation 3: Collection of national data regarding rates of suspension and expulsion of students with disability.

PREVIOUS INQUIRIES

The significant inadequacies of the education system for students with disability and the need for reform have been documented over a number of years. Various reports and inquiries commissioned by the Australian Government highlight the issue. These include:

- Australian Institute of Health and Welfare, *Making Progress*;²⁴
- Monash University, *Investigating the Feasibility of Portable Funding for Students with Disabilities*;²⁵
- National People with Disabilities and Carers Council, *Shut Out: The Experiences of People with Disabilities and their Families in Australia*;²⁶
- PricewaterhouseCoopers, *Disability Expectations: Investing in a Better Life, a Stronger Australia*;²⁷
- PricewaterhouseCoopers evaluation report, *Trial of the Nationally Consistent Collection of Data on School Students with Disability*;²⁸
- Productivity Commission, *Childcare and Early Childhood Learning*;²⁹
- Productivity Commission, *Schools Workforce*;³⁰
- Review of the *Disability Standards for Education 2005*;³¹
- Review of Funding for Schooling;³²
- Senate Education, Employment and Workplace Relations References Committee, *Teaching*

²⁴ Australian Institute of Health and Welfare 2008, *Making progress: The health, development and wellbeing Australia's children and young people*, Commonwealth of Australia, Canberra.

²⁵ F Ferrier et al. 2007, *Investigating the feasibility of portable funding for students with disabilities*, Centre for the economics of education and training, Monash University, Melbourne.

²⁶ National People with Disabilities and Carers Council 2009, *Shut out: The experience of people with disabilities and their families in Australia*, Commonwealth of Australia, Canberra.

²⁷ PricewaterhouseCoopers 2012, *Disability expectations: Investing in a better life, a stronger Australia*, Australia.

²⁸ PricewaterhouseCoopers 2012, *2012 Trial of the Nationally Consistent Collection of Data on School Students with Disability*, Australia.

²⁹ Productivity Commission 2015, *Child Care and Early Childhood Learning*, Commonwealth of Australia, Canberra.

³⁰ Productivity Commission 2012, *Schools Workforce*, Commonwealth of Australia, Canberra.

³¹ Department of Education, Employment and Workplace Relations 2012, *Report on the review of the Disability Standards for Education 2005*, Commonwealth of Australia, Canberra.

³² D Gonski, et al. 2011, *Review of Funding for Schooling*, Commonwealth of Australia, Canberra.

- and Learning;³³
- Senate Inquiry into the Education of Students with Disabilities;³⁴
- Senate Select Committee on School Funding, Equity and Excellence in Australian schools;
- Victorian Auditor-General Inquiry into Education Transitions;³⁵ and
- Victorian Equal Opportunity and Human Rights Commission, *Held Back: The Experiences of Students with Disabilities in Victorian schools*.³⁶

Presently there are a number of inquiries into education and students with disability at the state and territory level. These include:

- Access to the Education system for Students with Disabilities (South Australia);
- Consultation on the Transition: A Positive Start to School program (Victoria);
- Expert Panel: Students with Complex Needs and Challenging Behaviour (Australian Capital Territory);
- Review of the Program for Students with Disabilities (Victoria);
- Review of the Tasmanian Education Act (Tasmania);
- Schools Funding Review (Victoria); and
- VET Funding Review (Victoria).

THE DIRECT EXPERIENCE

The depth and breadth of poor educational experiences reported to CDA is immense. It is the view of CDA that students with disability are not automatically afforded their rights to equal participation in education on the same basis as their peers without disability.

Current education provision for students with disability is patchy. Education reform has been slow over the years. There has undoubtedly been progress when we examine the education experiences of children with disability historically. The gradual development of ‘special education’ in the early 20th century arose from a recognition that children with disability are entitled to some form of education, which had previously been largely denied.³⁷ From the 1960s and 70s, the focus of education policy for students with disability in Australia was increasingly oriented to ‘integration’.³⁸ Integration involves “making adaptations or accommodations to enable participation within a mainstream” setting, for example through incorporating disability specific classes within mainstream schools.³⁹

Recent times have seen increased focus in research and in practice on inclusive education. Inclusion education is defined as “recognising the right of every child (without exception) to be included and adapting the environment and teaching approaches in order to ensure the valued participation of all

³³ Education, Employment and Workplace Relations References Committee 2013, *Teaching and learning: Maximising our investment in Australian schools*, Commonwealth of Australia, Canberra.

³⁴ Education, Employment and Workplace Relations References Committee 2002, *Education of students with disabilities*, Commonwealth of Australia, Canberra.

³⁵ Victorian Auditor-General’s Office 2015, *Education Transitions*, State of Victoria, Melbourne.

³⁶ Victorian Equal Opportunity and Human Rights Commission 2012, *Held back: The experiences of students with disabilities in Victorian schools*, Melbourne.

³⁷ K Cologon 2014, ‘Better together: Inclusive education in the early years’ in K Cologon (ed), *Inclusive education in the early years: Right from the start*, Oxford University Press, South Melbourne, pp. 8-9.

³⁸ Ibid, p. 10.

³⁹ Ibid, p. 10.

children.”⁴⁰ This too, despite being a right, is far from being an available educational option to most students with disability in Australia.

A quality education experience for a student with disability is still likened to winning the lottery. Positive education experiences are also usually riddled with areas of compromise. CDA has been informed of thousands of poor education experiences since its establishment. Students typically experience similar challenges and barriers. These experiences are the most powerful informant of Australia’s current failings and are compelling evidence for the critical and urgent need for education reform.

Systemic culture of low expectations

Australia is a very ableist community. Ableism involves discriminatory attitudes and practices arising from the perception that a person who experiences disability is in some sense inferior to a person who does not experience disability. Ableism is to disability what racism or sexism is to ethnicity and gender.⁴¹

Ableism is evident in the Australian education system, which has a deeply entrenched culture of low expectations regarding students with disability. The value of education, which is so highly thought of and applied to children without disability, is often seen as inapplicable or irrelevant for students with disability. As a consequence, the unacceptable becomes acceptable and is legitimised. Further, poor educational attainment is often attributed to the impact of disability.

The following comments from students and families illustrate this experience:

1. *At the special school I attend, I’m treated like an idiot, like I can’t do what other kids can do. Their expectations of me are very low. They don’t treat me like an individual – Student aged 15 years.*
2. *(At school) they would get us to watch DVD’s for sport and other lessons, which were for little kids not a 16 year old. At lunch and recess every day I was in the library on computers. I want to be treated like other students – Student aged 16 years.*
3. *I am just like you. I have dreams, wants desires, hopes and a life just like you. I want to be treated like everyone else, I just need some help, guidance and heaps of encouragement. See me FIRST, not my disability – Student aged 15 years.*
4. *Kids who have a disability are just like other kids. We just happen to have a disability. We have feelings and want the same things as other children. See us as kids who want to be happy and have ideas like everyone else – Student aged 13 years.*
5. *All (my son’s school) could see was a disability, they could not see the child first – Parent.*
6. *When (my child was) due to start school (I) was told the school couldn’t take him due to not (having) enough funding and (to protect the occupational health and safety) of the staff. They had never met my child – Parent.*
7. *Many (schools) were discriminatory...and only saw what (my daughter) couldn’t do and not what she could do! – Parent.*

⁴⁰ Children with Disability Australia 2013, *Inclusion in education: Towards equality for students with disability*, Melbourne, p. 3.

⁴¹ *Ibid*, p. 17.

8. *(My child's) local school counsellor was another matter we had to deal with in the early years. She had different expectations for (my son) than we did as parents. She was of the view that (his) ability to work as an adult would be suited to delivering pamphlets in letterboxes. WHAT? This was said to us when (our son) was just seven years old – Parent.*
9. *We have had to fight to get our son into the subject choices that suit him. The school each year try to put him into what they consider 'easy' subjects...They prevented him doing sciences and physics last year but this year we fought again and he is doing physics and got an A...They think he will require too much support and I think they don't see what he is capable of – Parent.*
10. *(My son) has been excluded from some class activities and given menial tasks to do to keep him busy whilst the rest of the class learn – Parent.*
11. *(In grade two my son) went backwards as his teacher didn't adjust the curriculum... She gave up on him and he gave up on her. (His) last four weeks of school were spent watching Minecraft DVDs – Parent.*
12. *(My child's) funding was used to babysit not educate – Parent.*
13. *My son's school have stopped subjects such as science, history and geography. In senior school, they no longer have literacy and numeracy. They are setting children up for failure – Parent.*
14. *Special schools appear to have no pedagogy at all. Their curriculum is thrown together out of things they imagine to be important for children to know. There is no wisdom, no thinking things through. My son was singing nursery rhymes until he was 10. Very inappropriate, but they had nothing else to offer – Parent.*
15. *How many actually want kids with disabilities at their school? I know my daughter's Principal didn't want her there – Parent.*
16. *The Principal and school culture have not been supportive of (my son's) needs and there is great reluctance to provide any type of resources (even ones without cost to the school). Any attempt to approach the school regarding his specific needs...have been met with open hostility and intimidating behaviour towards myself and the advocate – Parent.*
17. *The Principal and teacher are unwilling to implement strategies to assist my children. They are basically treating my family as a burden and an imposition – Parent.*
18. *I have in the past been asked to keep my child home on an open day. They didn't want him to embarrass the school – Parent.*
19. *The Principal is instrumental in generating a climate that is not inclusive, referring to my son unfavourably as 'children like him' and saying that he will never have his needs met by her school – Parent.*
20. *There is a culture in (my child's) school where some believe children (with disability) should not be included. There are old fashioned views which are inflexible and do not value difference in people – Parent.*

21. *My son is in a mainstream school and it appears that they spend most of the time trying to convince us that he isn't suited for the school – Parent.*
22. *The attitude we have experienced is we are meant to feel lucky for any help (my son) gets even if it means only attending part time – Parent.*

While often unintentional, attitudes that equate disability with inability and incapacity are frequently expressed across the Australian community. It's often implied that having a disability is a negative. For example, the Minister for Education and Training made the following comments at a roundtable regarding students with dyslexia:

To me, dyslexia is not a disability, it's a learning difficulty which can be addressed and assisted, and I'm not yet ready to throw in the towel and say it's a disability, because to me that is putting students and young people in a bracket which many of them are not ready to be in, and attaching a nomenclature to children with dyslexia which I think is not necessary, because I think it's a learning difficulty that can be addressed, and I want to be part of addressing that.⁴²

Inadequate resources and funding

Inadequate funding is currently one of the most significant barriers to educational achievement for students with disability. Despite the existence of the Disability Standards for Education, it is commonly incorrectly assumed by schools and families that there is no requirement for the provision of adjustments and modifications by schools unless the child concerned qualifies for the specific funding available through the relevant education authority for students with disability.

There are undoubtedly other critical areas of education reform required but it cannot be denied that adequate funding is vital to the success of any reform program implemented for students with disability.

Related experiences include:

23. *My daughter's school is ducking and weaving to avoid giving her (the resources) that she needs apparently due to funding difficulties – Parent.*
24. *My son gets no help at school any more - they claim the criteria changed... So I spend all night doing the work he should have done all day (at school). The education system is letting down too many kids – Parent.*
25. *(My child was) only offered speech therapy once a month last year. This year he receives nothing as there are other children with higher support needs that get the help. The speech therapist does not have enough hours at school to see all children in need of support. – Parent.*
26. *My child has high functioning autism and there is no funding and no support – Parent.*
27. *One school we looked at were narrow, rude and unable to see any of (my daughter's) strengths. They claimed that they did not get any government support for children with additional needs so they did not feel they should make the effort (to provide*

⁴² C Pyne 2014, *Opening remarks at the policy roundtable on Students with Dyslexia*, Commonwealth of Australia, Canberra, viewed 25 August 2015, <https://goo.gl/B2EvXO>.

accommodations)... We took our daughter elsewhere as we didn't want to subject her to their bigoted attitudes – Parents.

28. *Distance education is the only solution we had for my son who did not tick every box and qualify for assistance in mainstream – Parent.*
29. *While my child is supported now, it took four years of school and a move from (the city) to a rural area for this to happen! I think the process to receive funding or assistance is pathetic as well as heartbreaking. Our son could have been so much further ahead in his learning if the educational department had policies in place that supported special needs kids regardless of their diagnosis! It was not until my son was FINALLY diagnosed with autism at age eight that we received funding and support. However the array of other needs he has DIDN'T count toward helping him at school. It had been a long horrid journey – Parent.*
30. *Whilst (my child has) additional support and it is currently adequate, what this does not capture is the feeling of constant threat that this may not continue... We feel like we are a 'burden on the system' when the amount it costs to support our daughter is mentioned (by school staff) at every meeting – Parent.*
31. *The funds the school receives should be used for that child so they can access the same education as others. Instead the funds are looked upon as compensation for having (students with disability) there – Parent.*
32. *My son goes to state primary school and my issue with teachers is they don't have information or resources they need. They all want to help they just don't know what to do – Parent.*
33. *My child is not progressing academically as he could be. He improves significantly when I can tutor him, but slips back when I cannot. His teacher simply doesn't have the time to give him the one-on-one tutoring he needs – Parent.*

School attendance

Students and families must contend with a broad range of discrimination relating to school attendance and access. While the ability of all children to attend their local school is an embedded value within the Australian community, it is routinely denied to students with disability. School choice for students with disability is typically extremely limited due to a number of factors. The following experiences encapsulate the multifaceted discrimination faced by students with disability when looking to attend school:

34. *My son was expelled from our only zoned school in Grade One. The next two closest schools refused to accept him. I then began ringing around and more than 40 government primary schools refused to take him or said they would only if...compelled to. In the end the education department said I could choose any school and they would compel the school to take him. I chose the least resistant school, which is a 30-45 minute drive from home – Parent.*
35. *The teacher straight out said (my daughter) would be too hard to teach – Parent.*
36. *When deciding on an appropriate mainstream school in Prep, six out of the seven schools I interviewed for my son told me that they wouldn't be able to 'provide' my son with the necessary resources to benefit from enrolment at their school. This was straight from the principals – Parent.*

37. *A smaller independent school told us they would not be able to accommodate our son before they met him or saw any reports. We stated that he was incredibly bright but needed support with social skills. They told us not to waste our time – Parent.*
38. *The school appeared keen to accept my son's enrolment until I informed them that my son was vision impaired. The school then advised me that their school was not suitable due to stairs to access the classrooms. I informed the school that I was aware that all classrooms were at ground level, with the exception of senior year level classrooms to which the school had an elevator for access...(They) continued to state that their school was not suitable – Parent.*
39. *We wanted (our son) to go to our local Catholic school as I went there as a child. They weren't interested in having him there, said they wouldn't have the funding needed to support him and that we should put him in the public system – Parent.*
40. *My daughter has been declined placements over 10 times in all school settings, including a special school and both government and non-government. They just refuse to support her – Parent.*
41. *I tried enrolling (my son) into several local primary schools, which they were happy to do until I mentioned he had a disability. Then they told me they didn't have the resources. We didn't fit in anywhere and this had a huge impact on all of our family. We were desperate for a place and (the only school that would accept our son) was an hour travel each way – Parent.*
42. *When transitioning from a special school to mainstream school I phoned about 15-20 schools in our area. Most of these either made poor excuses as to why they couldn't accommodate our son or flat out said that due to his needs they couldn't accommodate him. Most of these were government schools – Parent.*
43. *(An independent religious school) refused to enrol our daughter as they felt she did not hold scissors properly and they did not have someone available to help her every time scissors were used in a prep classroom – Parent.*
44. *“We can't help,” “(this is) not an appropriate setting” and “(we) can't give you what he needs” were some of the discriminatory comments handed out by principals of local government schools in my area when seeking information on selection of a primary school to cater for my son. The entire experience was very upsetting and unlawful – Parent.*
45. *If every school you approach says the burden is too great - where do you take your child for education? – Parent.*
46. *(My child attended a) small government rural school (and) did well for a couple of years with aide support...Eventually the teacher said “we have done we can for your son” – Parent.*
47. *After six months there and doing well they said he was “too autistic”...Despite the \$10,000 a year fee and that we were happy with his progress, we were told not to come back! – Parent.*
48. *(My child was) refused entry to a (religious) school as they felt they had their 'quota' of students (with disability) – Parent.*

49. *(My child's) school requested that we terminate the enrolment on the basis of having "too many special needs children" – Parent.*
50. *A private school we were interested in had no places in that year intake for special needs as they were at capacity with a very high proportion of extra needs in that year level – Parent.*
51. *A local school suggested he not enrol with them as he did not come with funding and they already had three other special needs children to be concerned about and didn't need another – Parent.*
52. *I approached (a) primary school for a preschool place in 2011 and was advised by the Principal that she had her "fair share of children of disabilities and they needed to be evenly distributed" – Parent.*
53. *My mainstream local school said it wasn't their role to take (my daughter) and that I should go to my public special school – Parent.*
54. *I was urged to put my son into a special school because I was told he would not get a unit in high school that would be suitable for him. They said if I didn't take the special school placement he would have no high school placement – Parent.*
55. *(I was told it was) "better for (my child) in a support unit setting as he is mixing with his own" – Parent.*
56. *Not one school would take (my son) as they said "he's 16 and legally doesn't have to be at school." This was despite my son wanting an education – Parent.*
57. *Nine schools denied access to (my son). I did not expect this as I wanted to return to work. (Reasons cited included) "lack of resources," "we don't take 'them' here" (regarding students with disability), "not enough fencing" or they would take an application and then send a letter saying there were no places – Parent.*

Some schools offer only conditional enrolment to students with disability. For example, it has been reported to CDA that enrolment has been contingent on families paying extra fees or students being excluded from certain activities. These conditions of enrolment would be completely unacceptable if the child involved did not have a disability:

58. *Conditions are placed on (my son's) enrolment...If we question how resources are used then that enrolment is threatened – Parent.*
59. *(My son) was refused access to a private school unless I attended with him and acted as his education assistant – Parent.*
60. *The school said (my son) was welcome to attend but he would be left inside during lunch breaks – Parent.*
61. *I have been told that if I was not willing to accept the very limited support they wanted to offer then I would be "asked to leave" – Parent.*

62. *A private school was quite happy to take our money and then insist we pay an additional \$25 per hour for an aide to shadow our child 35 hours per week "in case he ran away or got lost coming back from the toilet." We are no longer at that school – Parent.*
63. *When approaching the local private school, we were told that the total amount of support they would be able to offer our son would be a supervisor at recess and lunch. We were allowed to enrol him, under the proviso that we would supply (an individual support worker) at our own cost. This was economically un-affordable for us, even when we have a moderate to high combined income – Parent.*
64. *Principal stated (my daughter) is only allowed to attend school if she is medicated. We do not medicate her at home – Parent.*

Frequently, students with disability are not explicitly denied enrolment, however families are made to feel so unwelcome or that their child would be such an 'inordinate burden' that they are deterred from pursuing enrolment. This represents a less overt but equally harmful form of discrimination that has the effect of denying educational access:

65. *Several schools, while not formally refusing enrolment, said things like "the music room and library are on the second floor, it would be a shame for your child to miss out on those things" with no offer or refusal to consider reasonable adjustments – Parent.*
66. *(My child was) not officially refused but when we inquired it was made fairly obvious we were not welcome – Parent.*
67. *We approached our local Catholic secondary school and were told that due to funding constraints and the fact that they've spent the last 10 years building and upgrading their buildings, they don't have the resources or support available to help our son in the classroom. We were told they wouldn't modify work as this mucks things up for group work activities for the other students and that their school probably wasn't the right one for our son. Our conversation with this Principal finished with him acknowledging that this is a big decision for us and that if we choose not to apply to send our child there, he wouldn't be offended. While he never actually refused our enrolment it was implied throughout the entire conversation that they had nothing to offer us – Parent.*
68. *My daughter was not refused as such, but it was made clear that as she was getting older and her behaviour and additional needs were beyond the schools capabilities and experience – Parent.*
69. *We experienced three different schools that were careful to be politically correct, but made it very clear that my son wouldn't be welcome there. One principal folded her arms and legs and leaned in the doorway of her office (we weren't even invited in), and blatantly looked us up and down with disdain – Parent.*
70. *One school that we approached did not explicitly refuse enrolment but it was clear from their attitude to the prospect of our child going there...that this was for all intents and purposes a refusal. To make a family feel anxious about whether their child would be welcomed can be a form of refusal – Parent.*
71. *Other schools within our area were quite openly discriminatory and extremely discouraging of the possibility of my son enrolling – Parent.*

In other cases, students have such a poor experience at a particular school that families elect to change schools. In these cases, there is little choice, despite students not being formally denied enrolment:

72. *After many years of ongoing abuse, neglect and mishandling within government mainstream schools, causing extreme trauma and suicidal thoughts, I refused to send my son back – Parent.*
73. *I removed my child for these reasons: he was unsafe, he was roomed in a small windowless room for six months and then into demountable room with no outdoor area; (there was) inadequate fencing, he would run on the road; (and was) getting anxiety – Parent.*
74. *The Catholic system were unwilling to accommodate my son and this led to immense trauma with him and (my other children). In the end (the school) was completely ignoring him and my family and telling us we were the problem. He missed so many days of school due to their ignorance and treatment of him. In the end he became suicidal and we realised the school was never going to help him only make him worse. We were ostracised as a family – Parent.*
75. *We were not refused but both my children were treated severely until my child got so anxious they lost control of bladder and bowel movements on a regular basis – Parent.*

It is frequently reported to CDA that students with disability are unable to attend school full time. Schools often cite having limited resources or 'capacity' to educate students full time.

76. *My son...has only attended school 2.5 days per week this year, as that is all his school says they can do to meet his needs. The flow on effects to families (earning ability, stress etc.) are horrible – Parent.*
77. *I had a terrible experience with my son's high school last year they would only allow him at school for two hours per day – Parent.*
78. *The school won't let (my daughter) attend past 12 noon when aide time 'runs out' – Parent.*
79. *At the schools request (my son) is currently doing shorter days. It is extremely difficult for me to manage – Parent.*
80. *(My son) is enrolled as full time but does mainly half days because they ring me to get him – Parent.*
81. *A Catholic primary school said he could no longer attend full time because half his funding was being given to another child. The second primary school said he couldn't attend full time because he would run around or sit at the front of assemblies and also could not attend when the school had visitors (because he was a) disruption. The third NSW primary school was one hour's travel and wouldn't allow him to retreat to the classroom when he became overwhelmed during breaks – Parent.*

CDA is increasingly being informed of students being home schooled or enrolling in distance education due to the sustained failure of the education system to meet their needs. However, the lack of national data on both these issues prevents an accurate picture of this issue. While some families report a positive experience in providing home schooling or distance education, for many it

places a significant strain on finances and caring duties. Again, this trend demonstrates that the school system is failing to meet the needs of students with disability. Experiences reported to CDA include:

82. *(My son) is home schooled full time due to support class places not being available among other reasons – Parent.*
83. *My son...needs a one to one scribe 80 per cent of the time to help with decoding information and especially for maths. I was told this is impossible and we tried four schools. I now home school, which was not my choice! – Parent.*
84. *I was actually pressured by the school system to home school my son with disability. Something I didn't and don't want to do and that I am not equipped to do. Yet the school system was keen for me to do that - mostly I think so that they could wash their hands of the responsibility of educating him – Parent.*
85. *(My son) been 'removed' from all schools within a 30 km radius. He now attends part time home schooling due to parental work commitments – Parent.*
86. *I now home school my son because schools kept giving up on him and I was not going to send him to yet another school and have it happen again – Parent.*
87. *(My child) needed to be moved to distance education...due to abuse by teaching staff – Parent.*
88. *My son has recently been enrolled in distance education as the classroom has become inaccessible to him. His sensory processing issues are unable to be catered for due to the size of the class – Parent.*
89. *A state child protection authority has progressed action against a parent for not meeting the legal requirements for school attendance for her children. The parent was home schooling her children as schools had not been meeting their needs.*
90. *Families have reported experiencing discrimination as a result of having to home school children, including being unable to access to educational programs and activities, Technical and Further Education (TAFE) and Vocational Education and Training (VET) courses.*

Physical accessibility of a school premises is also a clear area where discrimination in enrolment and/or participation is experienced.

91. *At (my daughter's) school the computer room is upstairs. It is not accessible. Instead, she stays in her class with a teacher or aide and uses the classroom computer – Parent.*
92. *A primary school told me they would not have enough room for my son's equipment, (including a) standing frame, toilet chair, wheelchair – Parent.*
93. *A primary school with multiple sets of steps was unwilling to add ramps and a wheel chair accessible bathroom for changing unless funding pre-approved prior to enrolment – Parent.*

94. *Our local Catholic primary school is not accessible and the Principal advised that catering to my daughters needs would require a lift to be installed in the school which they were not able to provide – Parent.*
95. *When we were looking at high schools, the one we were zoned to didn't have any wheelchair access so the department strongly suggested we look at two other schools in the region that did because it would cost too much money to fix up the one we wanted to go to – Parent.*
96. *A parent contacted CDA because her son's school placed him in the furthest away classroom that is hard to get to in his wheelchair and are refusing to swap the rooms.*

Recommendation 4: Further education and information must be provided to all staff within education systems on the *Disability Standards for Education 2005*.

Recommendation 5: Further education and information be provided to all families, and students where relevant, on the *Disability Standards for Education 2005*. This includes placing them on every school and education authority website. In addition, the family of every student identified in the NCCD should be given a hard copy of the Standards.

Recommendation 6: Development of a system for recording reported breaches of the *Disability Standards for Education 2005* regarding: denial of enrolment and full time attendance; conditional enrolment; and discrimination regarding physical accessibility. There needs to be capacity within this notification system to monitor if multiple reports pertaining to particular schools or education authorities occurs.

Recommendation 7: Establishment of a new independent complaints mechanism which would allow more expedient review and resolution of alleged breaches and appropriate sanctions for proven instances of discrimination for both the school and education authority involved. The number and type of breaches, at the school, state/territory and national level should be clearly available to the public on school and educational authority websites and/or the *MySchool* website or the like. In some jurisdictions, there are concerns that many cases are settled in confidential mediation to avoid precedent being set or public knowledge of circumstance.

Workforce capacity

Workforce capacity is of critical importance in ensuring access to a quality education for all students. Educational staff, particularly teachers and leadership positions within schools such as principals and year level coordinators, are key gatekeepers in terms of access to education. However, a lack of expertise regarding inclusive education and meeting the needs of students with disability among educational staff is frequently reported to CDA. It is CDA's experience that a lack of understanding about inclusive education, including valuing difference as a positive, is common. This informs negative attitudes that position disability as inability.

Further, CDA is frequently informed of educational staff lacking the required expertise to meet the specific educational needs of each student. In many cases, this involves inadequate knowledge of the individual student and developing supports and adjustments to ensure opportunities for learning. This represents a key barrier to students with disability accessing education.

CDA recognises that there are pockets of good practice, with specific teachers and schools providing quality education programs and inclusive experiences. However, these opportunities are limited and are typically the result of leadership from specific individuals or schools rather than a system wide approach.

Direct experiences highlight these issues:

97. *(At high school) I was denied the opportunity to use Augmentative and Alternative Communication. This meant my communication was restricted to people talking to me, without giving me a chance to respond. The clear message was that what I had to say was not worth listening to – Student aged 18 years.*
98. *I have to go to extreme length to keep my daughter in inclusive education. Someone needs to educate the experts about teamwork, real choices and human rights – Parent.*
99. *We have worked closely with the school to support them and enable them to appropriately support our son. They lack the training and capability to support him. The issues that are experienced often result from them failing to see the warning signs. So it escalates and then he goes into meltdown and the way they handle that makes it worse. They have secluded him, locked him out of the classroom and have restrained him – Parent.*
100. *The main barriers have been around the school's and teachers' ignorance around (my son's) disability and distinct lack of will to plan for and modify activities and curriculum to enable him access, participation and success. The school has also refused to consider alternative supervised activities at play or lunch after serious safety considerations arose – Parent.*
101. *Teaching staff were not very knowledgeable about children with disabilities. I had to seek private consultations for staff from private organisations to provide training...at my family's expense – Parent.*
102. *(My son's) teacher said (to me) at a horrendous meeting - "a dyslexic child doesn't fit into our curriculum we will have to give him all Ds" – Parent.*
103. *(My son's) school told us he would be fine with no support, until the week before the end of Prep they suggested (he) repeat Prep. This was suggested without any other indicators. I was advised there was no funding, no individual support – Parent.*
104. *(My child's school) would not provide one to one assistance at drop off and pickup times causing meltdowns so the school tried to exclude my child from morning and afternoon routines of drop off and pickup and cutting an hour of school time from him. He's was walked out of the classroom in front of other students half an hour before pickup time because the teacher was not willing to hold his hand while I walked into the room to keep him from running into others. It caused severe social regression – Parent.*
105. *(My child's) teacher was rigid about her teaching practice and made it clear that she would not make adjustments for my son. The school Principal and disability coordinator supported the teacher completely and were extremely difficult to approach, even with an advocate – Parent.*
106. *My daughter's state high school was incapable of understanding what a sensory overload involved. They leave students with autism "sitting quietly" in an open noisy foyer. (The students flinch) whenever anyone talks or walks past – Parent.*

107. *My child is excluded from any activities that involve reading as she has dyslexia and access to the printed word is NOT provided on any basis that could be described as even approaching an equal opportunity to those who can read – Parent.*

108. *Regarding the level of support, the number of hours provided is adequate. However, adequate support isn't just measured in hours - it has a lot to do whether there is also sufficient adjustment and adaptation to create real inclusion. This is a work in progress, which has required a great deal of energy and investment on our part as parents – Parent.*

109. *(I am) continuously having to advocate for (my son's) rights. His teachers don't know how to modify the curriculum and aides are not trained – Parent.*

110. *We have had an ongoing battle for the past four years... We have worked closely with the school to support them and enable them to appropriately support our son. They lack the training and capability to support him – Parent.*

111. *An incident happened which led to a meltdown so horrible that the rest of (my son's) class had to be evacuated to the next room and I was called to come up to the school urgently. The triggers could have easily been avoided and the situation could have been handled better, but by the time I got there my son was so distressed he was frothing at the mouth and being restrained by the teacher – Parent.*

112. *A parent told CDA that a primary school Principal had informed her that disability was caused by "bad parenting."*

113. *A parent contacted CDA because her son's school would not allow him to chew gum, despite the fact that chewing gum helps the student sit, focus and concentrate. The school maintained that chewing gum was against the relevant education department guidelines, however the parent contacted the regional manager who informed her it was not.*

A lack of expertise can also mean that interventions or supports provided to students with disability are often not evidence based. A common example of this is the use of individual support workers or aides. This is frequently the default position of schools, regardless of whether this support is best suited to the specific student, with it being assumed that one-on-one support is always beneficial to students with disability. However, research suggests that individual support workers can contribute to the isolation of students within the classroom, for example sitting apart from the class with an aide to do separate work can inhibit opportunities for social interaction with classmates and inclusion in classwork.⁴³ Experiences reported to CDA include:

114. *On paper my child receives a lot of support. In reality the quality and appropriateness of that support is often poor. There is a focus on solving short-term classroom disruptions rather than the long term needs of my child. The end result is dependency on teacher aide rather than teaching skills that would allow them to be self-sufficient learner – Parent.*

115. *(My six year old son) had five different relief aides in the last two weeks and the school told me that he's been a bit unsettled! Of course he has with that many changes in aides! – Parent.*

⁴³ J Couston-Theoharis et al. 2005, 'Increasing peer interactions for students with severe disabilities via paraprofessional training,' *Exceptional children*, Vol. 71, No. 4, pp. 431-432.

A further issue is when external expertise is ignored or not effectively utilised. This is known to occur presently in relation to obtaining expertise from allied health professionals. The expertise of these professionals is often not used or consulted in the development of students' educational programs or students are unable to access allied health supports at all.

116. *We have problems with getting an appropriate speech pathologist and this is an ongoing issue, we will have to go interstate to get some appropriate assessment and support – Parent.*

117. *(I have had) incredible trouble even being able to meet with the school (to develop my child's educational program. It) has been a battle to even get them to read the information and reports the (allied health and other) professionals have provided – Parent.*

118. *On enrolment, there was reluctance (from the school) and an attitude of "we will try to do our best." Access to required expertise (speech pathology, occupational therapy and physiotherapy) has been limited – Parent.*

Another consequence of the lack of expertise within schools is the misidentification of behaviour support needs, with students frequently being viewed and treated as 'naughty.' Often, a disciplinary response to a student's behaviour support needs leads to use of punishment, including suspension and expulsion, rather than providing appropriate support. This scenario is also often experienced when the student concerned has a learning difference, such as dyslexia, where a student's lack of compliance and completion of learning tasks is understood as laziness or defiance. It is often reported to CDA that children are continually punished and singled out. Not only does this inhibit the provision of appropriate behaviour support or necessary curriculum modifications, but continual negative reinforcement can significantly impact on a child's feelings of self-worth and self-esteem.

119. *I have an 11 year old with an intellectual disability. My son started in a mainstream school, but we struggled to get him to go to school. I believe that it was due to the teachers' inability to cope. She was placing my son's name on the board about how many times he had been naughty. He is not a naughty kid though – Parent.*

120. *(My son) gets easily overloaded (which are) symptoms of him not being able to cope. The school just said "he's being disruptive"... rather than looking at the disability... (On one occasion the teachers sent) him outside for a couple of hours. I have no idea what my son was doing for hours outside the classroom – Parent.*

121. *(My son) was getting in trouble at school for not completing work. They thought he was being naughty, not realising why this was happening – Parent.*

122. *(My child) was suspended eight times when he was in Grade Two while in a support class in the public system... The school used suspension to legitimise their actions to remove ourselves from the school – Parent.*

123. *My child was suspended in Year Six for eight weeks. The first few days were full suspension, after that he was very slowly allowed back into the school day... under the guise the school were getting appropriate resources in place. All they did was isolate my son further for his anxiety and actually contribute to the problem – Parent.*

124. *I've done everything I can to help the teachers understand (my daughter's behaviour support needs) but still she is being punished by being suspended for her behaviour – Parent.*

The attitudes of teachers have been found to be critical to the success of inclusive education.⁴⁴ The 2011 review of the *Disability Standards for Education* found that negative attitudes are a major barrier to educational opportunities and freedom from discrimination in education in Australia.⁴⁵ Consequently, a positive attitude towards inclusive education is a key characteristic of quality teachers. Teacher education focused on inclusive education has been found to enhance teacher attitudes towards inclusion.⁴⁶ It is therefore essential that education in inclusion and disability studies is a core component of teacher education and professional development for teachers and all other professions involved in supporting inclusive education.

Teacher training and professional development should focus on:

- Supporting teachers in recognising and removing discriminatory, stigmatising and stereotyped attitudes, representations and approaches;⁴⁷
- Supporting teachers to move beyond deficit thinking, entrenched within the special education paradigm, towards welcoming and celebrating diversity;⁴⁸
- Learning about and developing understanding of inclusive education;⁴⁹
- Engaging in critical reflection about beliefs and practices;⁵⁰
- Developing knowledge of flexible pedagogy and universal design for learning;⁵¹
- Engaging with (critical) disability studies in order to develop understanding of the social

⁴⁴ R Berlach et al. 2011, 'Interpreting inclusivity: an endeavour of great proportions,' *International Journal of Inclusive Education*, Vol. 15, No. 5, pp. 529–539, L Carlson et al. 2012, 'The instructional strategies and attitudes of effective inclusive teachers,' *Special Education Perspectives*, Vol. 21, No. 1, pp. 7–20.

⁴⁵ Department of Education, Employment and Workplace Relations 2012, *Report on the Review of Disability Standards for Education 2005*.

⁴⁶ K Cologon 2012, 'Confidence in their own ability: Postgraduate early childhood students examining their attitudes towards inclusive education,' *International Journal of Inclusive Education*, Vol. 16 No. 11, pp. 1155–1173.

⁴⁷ A Becket 2009, 'Challenging disabling attitudes, building an inclusive society: Considering the role of education in encouraging non-disabled children to develop positive attitudes towards disabled people,' *British Journal of Sociology of Education*, Vol. 30, No. 3, pp. 317–329, Cologon 2012, *Confidence in their own ability: Postgraduate early childhood students examining their attitudes towards inclusive education*, pp. 1155–1173, M McLean 2008, 'Teaching about disability: An ethical responsibility?,' *International Journal of Inclusive Education*, Vol. 12, No. 5, pp. 605–19.

⁴⁸ A Broderick et al. 2012, 'Teacher counter narratives: transgressing and 'restorying' disability in education,' *International Journal of Inclusive Education*, Vol. 16, No. 8, pp. 825–842; Cologon 2012, *Confidence in their own ability: Postgraduate early childhood students examining their attitudes towards inclusive education*, pp. 1155–1173, P Lalvani 2013, 'Privilege, compromise, or social justice: Teachers' conceptualizations of inclusive education,' *Disability and Society*, Vol. 28, No. 1, pp. 14–27, R Slee 2001, 'Social justice and the changing directions in educational research: The case of inclusive education,' *International Journal of Inclusive Education*, Vol. 5, No. 2-3, pp. 167–78.

⁴⁹ Cologon 2012, *Confidence in their own ability: Postgraduate early childhood students examining their attitudes towards inclusive education*, pp. 1155–117, B Hemmings et al. 2011, 'Preservice teachers' views of inclusive education: A content analysis,' *Australasian Journal of Special Education*, Vol. 35, No. 2, pp. 103–116.

⁵⁰ S Baglieri 2008, 'I connected: Reflection and biography in teacher learning toward inclusion,' *International Journal of Inclusive Education*, Vol. 12, No. 5-6, pp. 585-604, Cologon 2012, *Confidence in their own ability: Postgraduate early childhood students examining their attitudes towards inclusive education*, pp. 1155–117, U Sharma et al. 2008, 'Impact of training on pre-service teachers' attitudes and concerns about inclusive education and sentiments about persons with disabilities,' *Disability and Society*, Vol. 23, No. 7, pp. 773–85.

⁵¹ Cologon 2012, *Confidence in their own ability: Postgraduate early childhood students examining their attitudes towards inclusive education*, pp. 1155–117, D Connor et al. 2012, 'Doing the civil right thing: Supporting children with disabilities in inclusive classes,' *Bankstreet Occasional Papers*, 28, C Kasa-Hendrickson et al. 2005, 'We have to start with inclusion and work it out as we go: Purposeful inclusion for non-verbal students with autism,' *International Journal of Whole Schooling*, Vol. 2, No. 1, pp. 2–14.

construction of disability and the role of the teacher in reducing discrimination, stigmatisation and exclusion, and facilitating inclusion and belonging;⁵²

- Developing an understanding of diversity as a resource, rather than a ‘problem’ and learning to presume competence and hold positive expectations of all children;⁵³
- Learning about available supports for facilitating inclusive education;⁵⁴
- Developing an understanding of the importance of building relationships with children in order to meet individual needs;⁵⁵
- Recognising the importance of listening to people with disability, including children, and drawing on the disability rights movement in striving towards inclusive education.⁵⁶ Within this, providing opportunities for respectful engagement with people with disability and their families;⁵⁷ and
- Establishing strategies for ongoing collaboration with other teachers, including the provision of a ‘theoretical toolbox’ to assist with engaging in ongoing critical thinking and critical reflection.⁵⁸

Further discussion of these issues and the considerable research evidence supporting teacher education in inclusion can be found in CDA’s submission to the Teacher Education Ministerial Advisory Group (appendix A19).

Recommendation 8: Development of mechanisms to ensure that all adjustments made to facilitate the learning and participation of students with disability are based in evidence.

Recommendation 9: Implement requirements for education in inclusion and disability studies in pre-service and in-service education for all teachers and all other staff involved in supporting inclusive education.

⁵² Broderick et al 2012, *Teacher counter narratives: transgressing and ‘restoring’ disability in education*, pp. 825–842, M Grenier 2010, ‘Moving to inclusion: A socio-cultural analysis of practice,’ *International Journal of Inclusive Education*, Vol. 14, No. 4, pp. 387–400, P Lalvani 2013, *Privilege, compromise, or social justice: Teachers’ conceptualizations of inclusive education*, pp. 14–27.

⁵³ D Biklen 2000, ‘Constructing inclusion: Lessons from critical, disability narratives,’ *International Journal of Inclusive Education*, Vol. 4, No. 4, pp. 337–353, D Biklen et al. 2006, ‘Presuming competence,’ *Equity and Excellence in Education*, Vol. 39, No. 2, pp. 166–175, Cologon 2012, *Confidence in their own ability: Postgraduate early childhood students examining their attitudes towards inclusive education*, pp. 1155–117, Grenier 2010, *Moving to inclusion: A socio-cultural analysis of practice*, pp. 387–400, Kasa-Hendrickson et al 2005, *We have to start with inclusion and work it out as we go: Purposeful inclusion for non-verbal students with autism*, pp. 2–14.

⁵⁴ Cologon 2012, *Confidence in their own ability: Postgraduate early childhood students examining their attitudes towards inclusive education*, pp. 1155–117, Sharma et al. 2008, *Impact of training on pre-service teachers’ attitudes and concerns about inclusive education and sentiments about persons with disabilities*, pp. 773–85

⁵⁵ Cologon 2012, *Confidence in their own ability: Postgraduate early childhood students examining their attitudes towards inclusive education*, pp. 1155–117.

⁵⁶ Biklen 2000, *Constructing inclusion: Lessons from critical, disability narratives*, pp. 337–353 Connor et al. 2012, *Doing the civil right thing: Supporting children with disabilities in inclusive classes*.

⁵⁷ K Broomhead 2013, ‘You cannot learn this from a book: pre-service teachers developing empathy towards parents of children with Special Educational Needs (SEN) via parent stories,’ *European Journal of Special Needs Education*, Vol. 28, No. 2, pp. 173–186, Cologon 2012, *Confidence in their own ability: Postgraduate early childhood students examining their attitudes towards inclusive education*, pp. 1155–117; Sharma et al. 2008, *Impact of training on pre-service teachers’ attitudes and concerns about inclusive education and sentiments about persons with disabilities*, pp. 773–85.

⁵⁸ A Broderick et al. (2012), *Teacher counter narratives: transgressing and ‘restoring’ disability in education*, pp. 825–842.

Exclusion

Students with disability frequently experience exclusion in education settings. This includes complete exclusion from an educational setting, such as denied enrolment, as well as exclusion from particular aspects of the curriculum or school activities. This can include a refusal of the school to make accommodations to ensure the student can participate, exclusion from classwork, activities and extracurricular activities or partial enrolment. This directly restricts opportunities for participation in learning and represents a barrier to accessing a quality education.

Being persistently excluded or segregated sends a profoundly strong message that children and young people with disability are not worthy or valued. Exclusion positions children and young people with disability as 'peripheral' to their peers and the wider community. CDA believes that this continual diminishing of a child or young person's self-worth causes significant emotional harm.

CDA's issues paper, *Belonging and connection of school students with disability* (appendix B) included some important considerations regarding exclusion and impacts on students' self-esteem. Critically, the paper found that feeling like you belong within a school community and are connected to a range of people within that community is highly important to ensuring a positive and inclusive schooling experience for all students.⁵⁹ Feeling that you are a valued, contributing member of a school community who is respected by others is important to belonging and connection. However, continual exclusion forms a key barrier to this.⁶⁰

Experiences of exclusion include:

125. *(At my son's school) they have lumped six kids in an afternoon class together (all students with disabilities) in one room and not in the classroom... (An) aide goes with them to the lunch room and then goes out and plays with them (which means the kids get excluded from play activities) – Parent.*

126. *(When my son was in) Grade Five, we asked about the NAPLAN (and what accommodations the school would provide to help my son participate) and were told we would receive none as he doesn't need any – Parent.*

127. *(My child's) school decided to isolate my child from other children on daily basis, keeping my child in a small meeting room with two teachers to work on social skills – Parent.*

128. *The school has made my son finish his school days at the commencement of lunchtime. When I queried the afternoon curriculum my son was missing out on, the school informed me that the afternoon lessons were not important – Parent.*

129. *Our daughter is in Year Seven and no longer attends classes with her peers. She has English, maths and science within a unit with two other children who have autism and then other subjects such as physical education, home economics and drama with year eight students. Our daughter is the only girl in the class. We have tried to work with the school for other options but they are unwilling to try these – Parent.*

130. *(My child was) locked in Principal's office instead of attending regular class as he's "too difficult." (He was) left to roam the school unsupervised instead of completing school work as*

⁵⁹ Children with Disability Australia 2014, *Belonging and connection of school students with disability*, Melbourne, p. 14.

⁶⁰ Ibid, p. 22.

apparently the school is not equipped to deal with children with disability that don't attract funding – Parent.

131. I was asked to keep my child at home three mornings a week so his teacher could provide class with uninterrupted learning – Parent.

A further issue of concern is the exclusion of students with disability from school events and activities, such as school camps, school sport, discos, band and assemblies. These activities are considered a core part of children's education experience, as they provide opportunities for making friends, trying new things, pursuing interests and play. These are fundamental opportunities afforded to children to support development. Forcing a child to miss out on school camp would typically be considered unthinkable, however expectations are frequently altered and lowered when the child involved has a disability.

Direct experiences reported to CDA include:

132. I was left out of a school trip to Sydney which everyone else in my class went on. They didn't ask me to go – Mum and I found out as they had pictures and a story in the school newsletter. I don't understand why I couldn't go with the other kids in my class – Student aged 16 years.

133. (My daughter) has to miss out on school discos (held) each term – Parent.

134. At a special school my daughter was excluded from the playground for a year because they said they didn't have the staff to keep her safe till I informed the Principal I was going to take it up with the (education department) and seek legal advice – Parent.

135. At his previous school my son was excluded from all but one excursion, special events and incursions. He was also entirely excluded from his class from the end of term two and for all of term three until he was expelled in the first week of term four last year. This took the form of being placed in a separate room (not much bigger than a cupboard) in isolation away from his class and teacher. He spent all day with one of the up to eight different aides engaged to watch him – Parent.

136. (My child has not attended) even one excursion in three years. Not even one foot outside the school fence – Parent.

137. (My child) has been excluded from some class activities and given menial tasks to do to keep him busy whilst the rest of the class learn – Parent.

138. School says they only (provide) support for 'core learning' (areas) of literacy and numeracy and will not support other disability-specific needs. (My child is) not permitted to attend lunch or any classes after 12pm each day (or) attend sports carnivals, any sports program, interschool sports, excursions or camps - even if we go (to provide support) – Parent.

139. We were told by the previous mainstream school we enrolled our son in that he would only be able to attend a few hours a day and would not be able to play on playground equipment and that they wouldn't be able to provide extra care – Parent.

140. My child is not allowed to do swimming lessons unless I am present and take responsibility for him – Parent.

141. *(My child's school informed me that) wheelchair accessible buses cannot be provided because...it would cost too much additional money... Accommodation and 24/7 care could not be provided for disabled students on overnight camps in remote locations – Parent.*
142. *(My son) was excluded from attending camp as he needs help with showering and (the school) would not allow a parent to attend to support him. The choice we were given was that he could stay in a hotel nearby. He therefore did not attend as we thought that was the best part sleeping with the other kids. He is very isolated at school camp would have been a great opportunity to make friends – Parent.*
143. *(My daughter) has had to miss out on swimming if there has been no one willing to get in the pool with her – Parent.*
144. *Our son has been excluded from student groups that run during lunch as the school has stated that the integration aides that he may require during these groups are entitled to their lunch break – Parent.*
145. *(My child's) school informed me that they cannot increase supervision in the schoolyard during recess and lunchtime. As a result, the school is restricting my son in the schoolyard during these times and so he is often unable to play with his peers. Without supervision, the school has also made my son stay in the conference room during these times where, through the glass wall, my son watches his peers play outside in the schoolyard – Parent.*
146. *(My child) does not attend assemblies to receive awards because she makes too much noise – Parent.*
147. *(My son's) school were concerned that he was going on a school camp and suggested we pick him up at end of each day's activities. We said no as we believed he would be fine. He was and they were surprised – Parent.*
148. *On more than one occasion I have had to chaperone or (my daughter) has had to miss large school excursions (such as the zoo) because they did not have the adequate staff to maintain safe ratios...It's upsetting and disgusting – Parent.*
149. *We are told (my son) need not come to school when the class goes on excursions, field trips or sporting carnivals. If he goes to these he is taken for a walk on the oval or to a restaurant by the aide so that he does not disturb other students – Parent.*
150. *My child was allowed to attend events, but (the school) left him in a corner to stare out the window, because there was no one there would could interact with him – Parent.*

Recommendation 10: The mandatory establishment and implementation by all schools of an inclusion plan which identifies how the school provides equal opportunities for learning and participation for ALL students, including students with disability, and how the school recognises and values the diversity of all learners within its culture and practice.

Monitoring student progress and outcomes

The present education system provides limited accountability mechanisms for students with disability in relation to academic and other learning outcomes or in relation to expenditure of specific funding. No consistent means of measuring the academic progress of students with disability

who require modified curriculums exists. Many existing measures of student attainment in the school system, including NAPLAN and the Australian Tertiary Admission Rank (ATAR) or the Australian Early Development Index (AEDI) allow exclusions, with students with disability often not being included.⁶¹ This is also the case for international measures that Australia participates in, such as the Programme for International Student Assessment (PISA), a three-yearly international survey of 15 year old students in reading, mathematics and science.⁶² Typically the academic program of students with disability is not measured using these instruments.

Some students have individual education programs but these contain goals that are established, implemented and evaluated by schools. There is a prevailing concern that there is no objective input into this process. In many jurisdictions the development of an individual education plan (IEP) is not mandatory. There is no national data on the proportion of students with disability who have a current IEP. Further there is great disparity regarding process for establishment, review and evaluation of these plans where they do exist.

IEPs “are documents and processes intended to support the development and implementation of inclusive practices that consider the individual child and setting.”⁶³ A number of issues regarding the development and implementation of IEPs are frequently reported to CDA. These include: students and families having to strongly advocate to develop a plan in the first instance; limited opportunities for students, families and external professionals to provide input; and IEPs not being implemented. These experiences do not align with the available research around best practice in IEP development, which emphasises the importance of a family-centred approach.⁶⁴ The following are experiences reported to CDA:

151. I have begged the school...to please provide an (IEP but I) always (get) excuses – Parent.

152. We tried hard to get formal IEP but (had) no luck...It's been a massive compromise – Parent.

153. It took us 15 months of fighting with the school to get support for (my daughter) and we had to hire a company to advocate before they would do anything to support her – Parent.

154. In (my child's) previous independent school they had to be dragged kicking and screaming to get an IEP – Parent.

155. I've received the plan and then been given the chance to give feedback, rather than being included in its development...I find this pretty frustrating and disempowering! – Parent.

156. I participated in meetings... (however the) IEP has not been updated in the past year...even though I have placed this request in writing several times and been promised it – Parent.

157. I was basically informed what the school wanted my son to achieve despite my disapproval. My opinion was dismissed – Parent.

⁶¹ Productivity Commission 2015, *Report on government services: Volume B childcare, education and training*, p. 4.47.

⁶² Parliament of Australia 2014, *School education: a quick guide to key internet links*, Commonwealth of Australia, Canberra, viewed 24 August 2015, <http://goo.gl/Vuk5uz>.

⁶³ K Cologon et al. 2014, 'The A-Z of IFSPs, IEPs and SSPs!: Positive planning for inclusion' K Cologon (ed), *Inclusive education in the early years: Right from the start*, Oxford University Press, South Melbourne, p. 211.

⁶⁴ *Ibid*, p. 215.

158. *The IEP document was basic and completed before the meeting and reflected nothing about what was discussed at the meeting I attended – Parent.*

159. *(I have had) incredible trouble even being able to meet with the school. (It) has been a battle to even get them to read the information and reports the (allied health and other) professionals have provided – Parent.*

160. *My experience is that IEPs are designed to create the illusion of help, but teachers couldn't care less as to whether they are put in place or are providing effective outcomes or not – Parent.*

As mentioned previously, there are considerable gaps in the data collected within Australia on a number of issues that relate to educational attainment of students with disability. Inconsistencies or gaps in data collected across states also inhibit a clear national picture of educational attainment for students with disability.

CDA is also constantly informed of very poor experiences for students with disability of post school transition. At present post school transition is a fraught time for most students with disability and families, who are being let down and are unable to access the life experiences and opportunities typically afforded to young people. Common barriers to post school transition frequently spoken of by CDA members include: scant or no information provision on post school options; systemic low expectations; lack of knowledge and expertise of school staff; the denial of work experience opportunities; and the lack of coordination between schools and the post school sector. A key focus of education is about preparing students for the future to become contributing adults in society. There is limited information available on post school destinations for students with disability in the immediate and years following school.

Experiences of post school transition reported to CDA include:

161. *(I experienced) discrimination at school and (a) failure to provide supports I'm legally entitled to meant I lost access to supports and developed severe mental health issues. I'm still unemployed – Young person.*

162. *I wish my teachers had believed in me – Young person.*

163. *There's a lot of things you find out about once it's too late, if I had my time again I would ask what help is available for people with disability – Young person.*

164. *(My) career advisor didn't know what to do. I need help – Young person.*

165. *Most schools provide a transition coordinator but information is totally dependent on the knowledge base of the coordinator which varies considerably. Not all schools offer good transition plans – Parent.*

166. *I don't think the school have ever come to us and said 'what are you doing next year?' – Parent.*

Recommendation 11: Development of nationally consistent guidelines and requirements regarding the development and implementation of individual education plans that is informed by best practice, notably a 'family-centred' approach.

Recommendation 12: Clear accountability mechanisms are contained within relevant legislative instruments that provide transparent processes for monitoring and responsibility of learning outcomes for students with disability. These could mandate the development of individual education plans and establish a formal process to ensure progress in identified learning targets.

Recommendation 13: Collection of national data regarding post school outcomes for students with disability immediately and in the first three years following school.

Family-school engagement

Presently, there is a significant focus on family-school engagement in national education policy. This is reflected in the Australian Government's *Students First* education agenda, a focus of which is 'engaging parents in education.' Family-school engagement policy is typically focused on supporting families and school to work together in partnership to support the education of students. The *Family-School Partnerships Framework: A Guide for Schools and Families* states that effective partnerships should:

- View each partner as making equally valuable contributions, while respecting different contributions;
- Respect student needs and preferences;
- Address barriers to involvement in schools by families;
- Create better programs, opportunities and learning for students;
- Give families appropriate opportunities to contribute to school decision-making and governance; and
- Contribute to professional satisfaction for principals and teachers.⁶⁵

It is CDA's experience that family-school engagement for families of students with disability involves specific challenges. The vast majority of families who contact CDA are highly engaged in their children's education and are often or constantly experiencing conflict with their school due to the need to perpetually advocate for educational opportunities and participation for their child which are not afforded in the present inadequate system.

167. The Principal and school culture have not been supportive of (my son's) additional needs and there is great reluctance to provide any type of resources...Any attempt to approach the school regarding his specific needs...have been met with open hostility and intimidating behaviour towards myself and the advocate – Parent.

168. There are barriers at every turn. The school is an insular organisation and does not involve the parents in anything to do with selection or training of appropriate aides, or funding of necessary expertise – Parent.

169. I think the school needs to focus on how to communicate with parents. (My child's school) now work with me but it took many years of fighting to do this – Parent.

170. It is a constant battle for the parent to advocate the rights of their child. You sort it all out in primary school and then you have to start again in high school and then again if you change schools and yet again in senior school and for (year 12)...Every year you have to tell the 'story' to the next teacher or year advisor. There is ignorance on the part of individual teachers who will not provide reasonable adjustment (for students) – Parent.

⁶⁵ Department of Education Employment and Workplace Relations 2008, *Family-school partnerships framework: A guide for schools and families*, Commonwealth of Australia, Canberra, p. 2.

171. *I need to be given some credit...I know my child well and have asked again and again to be consulted when the need arises – Parent.*

172. *(My daughter's school) need to ask a lot more questions and stop assuming that they know better than we do. We don't know everything about the best way to teach our daughter but we are a really good place to start when it comes to our daughter's needs – Parent.*

Another issue is that some families are unaware of their child's rights or have experienced such persistent discrimination that they accept low expectations or poor practice. Often this is because families are unable to maintain the vigilant advocacy required to challenge the entrenched inadequacies of the education system which exist. These experiences are reflected in recent research with families of children with disability accessing early childhood education services. Families reported "that a barrier to inclusion was their own exhaustion in the face of continued experiences of exclusion. For some families this led to them 'giving up the fight' and to a lack of hope."⁶⁶

173. *There has been a lot of letting go for me as I now have no expectations from the (state) Education Department, I just want (my daughter) to feel safe and happy. I don't have the energy anymore, I am just project managing my child – Parent.*

Recommendation 14: Development of policies and procedures for schools regarding communication with families of students with disability.

Restraint and seclusion

CDA is informed of students with disability experiencing restraint at school. Often, restrictive practices are used as a 'strategy' to 'manage behaviour' or in cases where staff are unaware that what they are doing constitutes restraint. It is often justified as acceptable or necessary to ensure the safety of the student concerned or others. However, it is critical to recognise restraint as abuse.

Experiences reported to CDA include:

174. *(I only) recently stopped my son's special school using a time out chair in a separate room - (the) chair (was) bolted to the floor and my son belted in – Parent.*

175. *The school I went to would (hold) down students for not doing their work. Surely there are better strategies than that – Student.*

176. *(My son) is currently being sedated to attend school. The school says he is doing well. His doctors say he is suffering a huge amount of emotional distress due to his education – Parent.*

177. *My son was tied down with rope to a chair...while in childcare because he wouldn't sit and listen to story time – Parent.*

178. *As an acceptable strategy to safeguard a student from hitting his head, school personnel tied a student to his chair for all class lessons and then tied him to a pillow on the floor during other activities – Parent.*

⁶⁶ K Cologon 2014, 'Not just being accepted but embraced: Family perspectives on inclusion' in K Cologon (ed), *Inclusive education in the early years: Right from the start*, Oxford University Press, South Melbourne, p. 101.

The seclusion of students with disability is often justified as 'behaviour management' and it is also often reported to CDA that it is used as a punishment. The Australian Psychological Society has defined seclusion as "solitary confinement of a person in a room or area (e.g. garden) from which their exit is prevented by a barrier or another person. Seclusion involves situations in which people believe they cannot or should not leave an area without permission."⁶⁷

CDA is aware of numerous cases where enclosures have been used for students with disability. This issue was brought to national attention with the reporting of the use of a cage for a student with disability in Canberra this year.⁶⁸ However, this is not an isolated incident. Other cases where the media has reported the use of small enclosures to seclude and abuse students with disability include in New South Wales⁶⁹ and Tasmania⁷⁰ in 2010.

179. *My son was locked in a broom closet at high school...and we were asked to pay for the window that he broke... (and) the school did not think that it was wrong. I pulled him out very quickly!* – Parent.

180. *(At my son's school there) was a huge cage in the middle of school, the school was padlocked once kids were in and parents were not allowed to be involved in their education. I cried every day I dropped him there* – Parent.

181. *My son was made to do his one on one work in a storeroom cupboard, no windows, shelves stocked high with supplies...how depressing!* – Parent.

182. *My son had a 'containment area' built for him when he was in Prep... horrific!* – Parent.

183. *I have heard of a child being sent to an area without a seat, one gum tree for shade and no teacher supervision they called the Pig Pen* – Parent.

184. *My child was abused at mainstream school. She was humiliated, isolated (and) placed in the corner facing the wall...That is just the tip of the iceberg of what happened to her* – Parent.

185. *(My son) was humiliated in his last school, he was stuck between two flag poles (in) rain, hail or shine and was told by the teacher if he leaves that spot he will be expelled. He was put on parade as a naughty child and when I rang this teacher he told me "what is your problem, I stick my head out the window to make sure he's ok, he's not thirsty or needs to go toilet"* – Parent.

186. *(My son has) anxiety due to school locking him I sensory room for lengthy periods of time and not redirecting his behaviour* – Parent.

187. *My daughter...was subjected to being placed in a purpose built room built specifically for her when she was 10-11 years old whilst she attended Primary School. (She) would be placed in*

⁶⁷ Australian Psychological Society 2011, *Evidence-based guidelines to reduce the need for restrictive practices in the disability sector*, Melbourne, p. 11.

⁶⁸ R Brown 2015, 'Children with autism caged and abused at school,' *Sydney Morning Herald*, viewed 22 July 2015, <http://www.smh.com.au/nsw/children-with-autism-caged-and-abused-at-school-20150402-1mbt48.html>.

⁶⁹ News.com.au 2010, 'Outrage over Seven Hills West Public School putting autistic children in cage,' viewed 22 July 2015, <http://www.news.com.au/national/outrage-over-seven-hills-west-public-school-putting-autistic-kids-in-cage/story-e6frfkvr-1225839691640>.

⁷⁰ D Brown 2010, 'Autistic kids 'caged' at school,' *the Mercury*.

this room for "behaviours of concern" by teaching staff... This would occur daily – Parent.

Education settings are typically outside the jurisdiction of policy and oversight relating to restrictive practices. For example, the 2013 *National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Service Sector* does not include schools. In Victoria, the Senior Practitioner (now in the Office of Professional Practice) does not cover education, meaning families do not have any recourse through this authority for restraint and seclusion experienced in schools in contrast to disability service settings. This represents a significant gap in protections for children with disability. It is also important to note that in other contexts, the intent is to reduce and eliminate restrictive practices yet in school settings there are no similar policies with this purpose.

It is imperative that restraint and seclusion is recognised as abuse. CDA's submission to the Senate Inquiry into *Violence, abuse and neglect against people with disability in institutional and residential settings* recommends the establishment of an independent national monitoring and oversight body for restraint and seclusion that covers all settings, including education.

CDA is also of the view that there must be mandatory reporting of restrictive practices. Accurate information will contribute to ensuring consideration of the use of restrictive practices in public and policy debates. Currently, there is a fundamental gap in data on the current experience of restraint and seclusion of children and young people, across the country. In order to ascertain whether efforts to reduce the use of restrictive practices are effective, it is imperative to obtain accurate data.

There is a clear and urgent need to ensure that best practice in behaviour support is adopted in education settings. This should include clear guidelines and strategies to eliminate the use of restraint and seclusion. The Australian Psychological Society have developed *Evidence-based guidelines to reduce the need for restrictive practices in the disability sector*. These guidelines highlight the need to ensure that behaviour support strategies suit the needs of each person. In particular, Positive Behaviour Support (PBS) is proposed.

PBS focuses on understanding people and developing strategies and supports that will address each person's needs. This can focus on environmental factors such as staff training or accommodating the sensory needs of a child and young person. PBS also involves strategies to provide appropriate behaviour support that meets the needs of each person, such as focusing on communication and developing coping strategies for stress and anxiety.

An important consideration is around the quality of PBS plans. There is a need to ensure that PBS plans are established by professionals who have appropriate training to ensure that individual plans reflect best practice. CDA recommends adopting requirements to ensure quality PBS plans that adopt a rights-based framework that respects the dignity of each person with disability. Further, education, training and professional development for educational staff is imperative to ensuring PBS plans can be effective and that the use of restraint and seclusion is significantly reduced.

Recommendation 15: Establishment of an oversight body, or the inclusion of schools within existing statutory authorities for example the Office of Professional Practice in Victoria, for the use of restraint and seclusion in schools that must authorise the use of restrictive practices beyond a first unplanned emergency. This body should also record national data on the use of restraint and seclusion regardless of setting. Schools would therefore be required to collect data on all incidents where restraint or seclusion occurs.

Recommendation 16: Development of policy and/or legislation mandating the development and implementation of Positive Behaviour Support plans, ensuring that adequate training has been undertaken by those developing and implementing plans, including educational staff.

Recommendation 17: Development of policy mandating notification of families within an identified acceptable time period if their children are subjected to restraint and seclusion at school.

Abuse

CDA is frequently informed of students with disability experiencing abuse in education settings. This includes blatant examples that are clearly defined as abuse, such as physical and sexual assault. However, students with disability also experience incidents that are often not considered abuse because the child involved has a disability. Restraint and seclusion that is justified as ‘behaviour management’ is an example of this. There are other significant instances of abuse which also need to be considered. For example, students have been denied the opportunity to use the toilet while on a school excursion or have no access to food and drink during long bus rides to and from school.

CDA recently provided a lengthy submission to the Senate Standing Committee on Community Affairs’ Inquiry into *Violence, abuse and neglect against people with disability in institutional and residential settings*. The submission provides a detailed discussion of abuse in education settings, responses to abuse by education providers and provides a number of relevant recommendations. The overwhelming majority of experiences of abuse reported to CDA occur in an education setting.

The following are direct experiences of abuse of students with disability:

188. The story that most affects me is the boy (with disability) who was urinated on by a classmate from head to foot. He was left in his clothes and the effect on him and his family has been (significant). Two years later the school put both boys in the same class. When the family complained they were given the option of being with another child who had bullied in the form of pinching and yelling. When I raised it I was brushed off – Disability support worker.

189. Recently I have withdrawn my child from school after an incident where six teachers chased him after he walked out of the classroom. One of those teachers had backed him into a corner and (my son) had thrown a book at them and the teacher was incensed because he had done this –Parent.

190. My child was publically humiliated in front of three different classes of peers and then verbally lashed by the Principal until he curled up into a foetal position and became non-verbal for 40 minutes. At NO time did the school contact me regarding this. They rang the after-school care and asked them to pick him up early – Parent.

Bullying

Bullying represents a persistent and chronic experience for many students with disability. This is reflected in the experiences reported to CDA and in available research, which has found that students with disability, regardless of age, gender, educational setting or type of disability, experience more bullying than their peers without disability.⁷¹ Bullying is defined by the Ministerial Council for Education, Early Childhood Development and Youth Affairs as “a pattern of repeated

⁷¹ S Robinson et al. 2014, *Safe at school? Exploring safety and harm of students with cognitive disability in and around school*, Centre for Children and Young People, Southern Cross University, Lismore, p. 7.

physical, verbal, psychological or social aggression that is directed towards a specific student by someone with more power and is intended to cause harm, distress and/or create fear.”⁷²

It is CDA’s experiences that responses to bullying of students with disability are often highly inadequate. For example, staff may attribute bullying behaviour to students with disability having ‘poor social skills’ rather than examining and responding to the student who is doing the bullying. In other cases, students with disability aren’t believed when they report bullying.

The following are experiences reported to CDA:

191. For me the worst thing is the bullying. There are just so many kids that are freaked out by disability and some teachers are as well, to be honest. This year I have been hit in the head, punched, called a retard just too many times or on a not so bad day just told I am not normal. I sometimes over-react to the bullying and then I get detentions for my behaviour. Once I had to wear my uniform to parent/teacher day because I had a detention. I then had to empty rubbish bins for 90 minutes. It didn’t make me think about my behaviour, it just made me incredibly sad. How does that help someone learn? All this stuff really impacts on a kid’s self-esteem you know – Student aged 13 years.

192. Remembering all the times I have been bullied at school, I sink into my darkest times. I am being continually pushed over the edge, no-one has resolved the incident, and my Mum is not supportive enough to get me out of the greatest depression of my life. Now, I am considering killing myself just so no-one can bully me anymore – Student aged 14 years (same student as above one year later).

193. Being bullied in primary school was hard. My bully pushed me and said mean words to me because she thought I was different – Student aged 14 years.

194. I get bullied about my disability and the way I work. At lunch time I go to the library to avoid this. I wish people would accept me – Student aged 10 years.

195. I have had aides at three different schools bully me because they think they are going to get away with it. If they thought that originally, they know now, that they were most definitely wrong – Student aged 17 years.

196. (My seven year old daughter) was being bullied. (In) one incident she was assaulted by a Grade Two boy. (When) she tried to stop the argument, the boy started kicking her. The bullying kept on, and the school said “we’ll just keep an eye on her” and “if we see anything, we will stop it.” The school just treated me as one of those nagging parents. I was ignored by the school principal. The school hadn’t done anything about the incident and the child or parents who did incident were not talked to – Parent.

197. Unfortunately the bullies aren’t restricted to students. Principals, teachers and staff have bullied our children – Parent.

198. The bullies weren’t only the children, but parents as well and some teachers even turned a blind eye to it. I pulled (my son) out of school for months on end then we did two days at school and rest he spent at home. The bullying did not stop and the more I complained the more they tried to shut me down. To sum it up bullying nearly cost my sons life – Parent.

⁷² Ministerial Council for Education, Early Childhood Development and Youth Affairs 2011, *National Safe Schools Framework resource manual*, Commonwealth of Australia, Canberra, p. 8.

199. *My son left school in year nine because he could no longer stand the bullying he received from other students, and in at least one case by a teacher and an education assistant – Parent.*
200. *The use of such words as 'retarded' are widespread (at my child's school) – Parent.*
201. *(My son) has broken an ankle through bullying, has been beaten up on the way home from school and is now under the care of a psychiatrist and psychologist – Parent.*
202. *My son was horrendously bullied, isolated, humiliated, tormented (and) left to his own devices. My son was self-harming and pushed to the brink of suicide because of the school system – Parent.*
203. *As a result of a traumatic incident at a special school, where his teacher threatened to cut his fingers off, (my son) now experiences great difficulty in going to school – Parent.*
204. *(My daughter was) bullied by some of the aides (at school). When these issues were brought to the attention of the Principal, changes were made but unfortunately the aide concerned was also the integration coordinator. In the integration room, the aides made her feel unwelcome. They called her names such as 'blabber-mouth' and 'sticky-beak.' As much of her progress has to do with cooperating with the aides, their unethical and irresponsible behaviour served only to alienate her. She was constantly being told off. It was a time of much stress and anxiety – Parent.*
205. *(My daughter) got so badly bullied, (she was) stabbed with an earring in year three (but) no one cared – Parent.*
206. *My son began to self-harm. He was bashed at school by two boys who were two years older than him. He would come home with black eyes, bruises and scratches all over him...Once I took him to hospital after these kids bashed his head with a rock. No one working at the school ever saw any of these incidents – Parent.*
207. *A 12 year old student was king hit, a sudden and forceful punch to the head, and knocked out by one of his peers. This had occurred following a period of ongoing bullying. When he regained consciousness he had to phone his parents himself because the school had not done so.*
208. *A girl in Grade two who was being regularly bullied by a boy in her class and kept coming home with bruises on her arms. One day the boy ran up to kick her and knocked her to the ground leaving her almost unconscious. The school took no action. Two weeks later she was found at lunchtime hanging by a rope, tied under her armpits, from the top of the slide in the playground. Her mother was not told in person but read about it in the communication book used for regular written correspondence from teachers.*

Various anti-bullying and anti-vilification policies for schools exist across the states and territories. These often target specific types of vilification such as racism and sexism. Further, the *National Safe Schools Framework* provides guiding principles to support the creation of safe and supportive school

communities. In particular, it focuses on bullying, harassment, aggression and violence in schools.⁷³ However, policy frameworks in this area has limited focus on bullying and harassment that is ableist. CDA supports the development of policy that specifically addresses bullying on the basis of ableism and prompts all students to rethink negative attitudes regarding disability.

Recommendation 18: Commissioning of national research into prevalence and experiences of bullying of students with disability.

Recommendation 19: Development of an ‘anti-ableism’ policy for schools by state and territory education departments providing clear objectives, the legislative context and rights imperatives, responsibilities and monitoring and evaluation. Examination of state based anti-racism and anti-sexism policies may be relevant to inform the policy.

Transport

School transport has been a particular concern of CDA’s for a number of years. Policy and procedures vary in each jurisdiction. The most prominent concerns relate to the length of travel, pre-employment and ongoing screening of staff, qualifications and professional development for bus personnel and widespread inadequate policies and procedures. A number of incidents have occurred nationally, which illustrate that this is an environment where children with disability appear to be very vulnerable to experiencing breaches of human rights.

In Victoria, bus transport is provided to students enrolled in special schools. Presently the policy is that the travel time for each journey can be up to two hours for a student to travel to or from school – a potential of four hours per day. CDA is aware that children from as young as five years of age, are spending four hours a day traveling to and from school. In some instances this involves very short distances of less than 10km. This can mean that a child leaves home at 7.00am and returns home at 5.00pm. In many instances the families must utilise school transport because of work or other family commitments so it is not simply a preferred choice of families but the only transport option. The extensive travel time immediately denies many children significant opportunities and experiences of play, recreation, extracurricular activities and family time. All are basic rights outlined in the CRC. Further, for children with high health and physical care needs, the long periods spent travelling to and from school inhibits the provision of necessary support.

In 2010 CDA and the Disability Discrimination Legal Service, made representations to the Attorney-General regarding breaches of human rights conventions in school transport for students with disability in Victoria. The letter informed of breaches of the CRC, CRPD and *Victorian Charter of Human Rights and Responsibilities*. Since this time there has been no discernable change and students with disability continue to experience abuse and violation of rights due to lengthy school bus rides. This submission and the response from the Attorney-General’s department is provided for the Committee’s consideration (appendix D). It provides a detailed account of conditions on school buses for students with disability in Victoria, along with the breached articles of relevant human rights instruments.

Some experiences provided to CDA include:

209. My eight year old son used to spend up to four hours a day travelling to and from his school which was less than 10km away from our home – Parent.

⁷³ Australian Government Department of Education 2014, *The National Safe Schools Framework*, Commonwealth of Australia, Canberra, viewed 12 August 2015, <https://www.education.gov.au/national-safe-schools-framework-0>.

210. I have a 10 year old son that attends (a special school) and can be traveling for 90 minutes or more each way every day. I feel that this is a disadvantage to him and many other children therefore I believe that the education department should do a review of their current policy – Parent.

The many attributes associated with longer travel time (for my son) are:

- *Headaches every day from pure exhaustion due to travel time;*
- *Dehydration from not drinking and sitting in the hot bus for long periods;*
- *Not being able to go to the toilet for the duration of the bus trip;*
- *No food whilst on the bus;*
- *Sickness increased from (being) run down and sheer exhaustion;*
- *More meltdowns when he gets home;*
- *Unable to eat properly at night (because he is) too tired;*
- *Medication given way too early in the morning in order to catch a bus;*
- *(Sensory issues) increased with the increased noise;*
- *We should never put a cost figure on a child with (disability), (the school) currently disadvantages our children making the buses bigger (and) trips longer instead of smaller buses and shorter routes;*
- *The emotional and physical cost on a child;*
- *Not being able to join sports clubs events (from) Monday- Friday (because) they come home too late and too exhausted;*
- *Miss out on...after school therapies;*
- *The emotional toil and stress on families due to having more meltdowns; and*
- *Teachers at (school) would find that these children are less attentive during the day and possibly more disruptive – Parent.*

211. In June this year, a student who attends a special school in Melbourne was left on a locked bus for five hours because the driver failed to check that all students had exited. The student had fallen asleep when the other students exited the bus at 9am and was not found until 2.30pm.

212. A boy aged eight years old who was completely independent in toileting and continent was not provided with any options in the event he needed to go to the toilet if required throughout his two hour trip to and from school. After wetting his pants on a trip as he could not hold on any longer, his parents sought action from the Department of Education to ensure he could go to the toilet if needed to. The Department advised this was not an available option for him instead suggesting a number of possible options including a) wearing a nappy b) withholding of fluids during the afternoon or c) the provision of an absorbent towel in the event a situation arose if he couldn't access a toilet and simply couldn't hold on any longer.

Complaint mechanism

Presently, there is no timely, independent mechanism for students and families to pursue complaints regarding education experiences. Families typically follow a path when they have unresolved concern which progresses from raising issues to: a teacher; the Principal; the regional education office; the state or territory education authority; a legal pathway; and/or letters to state or federal Members of Parliament. Often families are directed between jurisdictions and portfolios. The division of responsibility for the funding and delivery of education between the states, territories and Commonwealth further dilutes the available pathways for complaints. Students and families can also pursue complaints of human rights violations regarding education to the Australian Human Rights Commission (AHRC) and to the United Nations.

Families frequently report that schools and education authorities become highly defensive and litigious in response to complaints, further escalating any tension. Often, families must undertake legal action through the courts as a result. This is an extremely expensive and time consuming pathway that is often not an option for many students and families.

In CDA’s experience it is rare for acceptable outcomes or resolutions to occur. Many complaints mechanisms are prohibitively difficult, time consuming and expensive. This can lead to students spending extended periods out of school and significant missed opportunities. CDA has heard of students having to change schools numerous times or enrol in distance education and/or home schooling as a result of unresolved issues and complaints.

Experiences reported to CDA include:

213. *My son has been in four schools we've had issues of varying degrees at each school. When a parent complaints, (schools) close ranks. (The state education authority) say "teachers are appropriately trained" but they are not – Parent.*

214. *My six year old was kept in an isolation room on display for more than a term and is now traumatised by it. It happens and schools get away with it. I would love to push them on it but the Department aren't interested and the school expelled him, so (the) problem (is) removed – Parent.*

215. *(My child's) school is terrible at communicating and transparency and letting me know what's happening in the school that affects my child. Even when I ask I don't get answers. I get the run around. I am still waiting for resolution of an incident from last year – Parent.*

216. *A parent raised fears to CDA of "causing trouble" and getting the school "offside" and causing their "child to suffer for it" if families advocate too strongly regarding a lack of funding.*

Recommendation 20: The establishment of an independent mechanism for complaints regarding education settings, which allows disputes to be resolved in a timely manner.

CURRENT NATIONAL SNAPSHOT

In April 2015, CDA conducted a national survey regarding the education experiences of students with disability with 1025 participants. The survey covered a range of issues to provide a snapshot of current experiences nationwide. Critically, the survey results demonstrate that students with disability continue to have overwhelmingly poor education experiences. CDA has observed minimal change in recent years. A summary of the results of CDA’s survey is provided below.

Q 1 IN WHAT CAPACITY ARE YOU COMPLETING THIS SURVEY?

SURVEY PARTICIPANT	RESPONSE RATE %
Parent	89
Other Family	2
Carer	2
Other	7

Q 2 WHAT STATE OR TERRITORY DO YOU LIVE IN?

STATE/TERRITORY	RESPONSE RATE %
ACT	5
NSW	27
NT	1
QLD	19
SA	7
TAS	3
VIC	32
WA	6

Q 3 WHAT TYPE OF AREA DO YOU LIVE IN?

AREA	RESPONSE RATE %
Regional	42
Remote	4
Metropolitan	54

Q 4 ARE YOU FROM A NON-ENGLISH SPEAKING BACKGROUND?

RESPONSE	RESPONSE RATE %
Yes	5
No	95

Q 5 ARE YOU OF ABORIGINAL OR TORRES STRAIT ISLANDER BACKGROUND?

RESPONSE	RESPONSE RATE %
Aboriginal	3.5
Torres Strait Islander	0.5
No	96

Q 6 HOW OLD IS YOUR CHILD?

AGE - YEARS	RESPONSE RATE %
1-3	1
4	2
5	6
6	7
7	10
8	9
9	9
10	8
11	9
12	8
13	6.5

14	6.5
15	5
16	4
17	4
18	2
19-25	3
PRIMARY SCHOOL 5-11 years	58
SECONDARY SCHOOL 12-17 years	34

Q 7 WHAT IS YOUR CHILD'S GENDER?

GENDER	RESPONSE RATE %
Female	31
Male	68.5
Other	0.5

Q 8 WHAT TYPE OF SCHOOL DOES YOUR CHILD ATTEND?

TYPE OF SCHOOL	RESPONSE RATE %
Government	38
Independent	10
Special School	15
Mainstream	20
Specialist Unit within a mainstream school	9
Other	8

Q 9 WHAT YEAR OF SCHOOL IS YOUR CHILD COMPLETING IN 2015?

SCHOOL YEAR LEVEL	RESPONSE RATE %
Prep	8
1	8
2	10
3	9
4	9
5	8
6	8
7	7
8	7
9	6
10	5
11	5
12	4
Other	6

Q 10 DOES YOUR CHILD ATTEND SCHOOL FULL TIME?

RESPONSE	RESPONSE RATE %
Yes	83
No	17

Q 11 DOES YOUR CHILD HAVE A DIAGNOSED DISABILITY OR LEARNING DIFFERENCE?

RESPONSE	RESPONSE RATE %
Yes	97
No	3

Q 12 DOES YOUR CHILD HAVE AN UNDIAGNOSED DISABILITY OR LEARNING DIFFERENCE?

RESPONSE	RESPONSE RATE %
Yes	14
No	86

Q 13 HAS YOUR CHILD BEEN REFUSED ENROLMENT BECAUSE A SCHOOL HAS SAID THEY DID NOT HAVE THE CAPACITY TO PROVIDE ADEQUATE RESOURCES OR SUPPORTS?

RESPONSE	RESPONSE RATE %
Yes	23
No	77

Q 14 IS YOUR CHILD RECEIVING ADDITIONAL SUPPORT AT SCHOOL?

RESPONSE	RESPONSE RATE %
Yes	75
No	25

If yes, what type of support does your child receive?

TYPE OF SUPPORT	RESPONSE RATE %
Individual support worker	13
Curriculum modification	17
Specific aides & equipment	11
Access to specialist allied health	6
Behaviour support	9
Social support	8
Assistance with personal care	9
Supervision	10
Teacher or other staff have completed professional development	11
Other	6

Q 15 IS YOUR CHILD ELIGIBLE FOR ADDITIONAL SPECIFIC FUNDING BECAUSE THEY HAVE A DISABILITY OR LEARNING DIFFERENCE?

RESPONSE	RESPONSE RATE %
Yes	68
No	32

Q 16 DO YOU THINK THE LEVEL OF SUPPORT YOUR CHILD RECEIVES AT SCHOOL IS ADEQUATE?

RESPONSE	RESPONSE RATE %
Yes	32
No	68

Q 17 HAS YOUR CHILD BEEN EXCLUDED FROM EVENTS OR ACTIVITIES BECAUSE THE SCHOOL HAS SAID IT DOES NOT HAVE THE RESOURCES TO ENABLE THEM TO PARTICIPATE?

RESPONSE	RESPONSE RATE %
Yes	39
No	61

Q 18 DOES YOUR CHILD HAVE AN IEP IN PLACE?

RESPONSE	RESPONSE RATE %
Yes	72
No	28

IF YOUR CHILD HAS AN IEP, WERE YOU INVOLVED IN THE DEVELOPMENT OF THE IEP?

RESPONSE	RESPONSE RATE %
Yes	70
No	30

Q 19 WHAT OPPORTUNITIES ARE PROVIDED TO YOU BY THE SCHOOL TO BE INVOLVED IN YOUR CHILD'S EDUCATION? SELECT ALL THAT APPLY.

RESPONSE	RESPONSE RATE %
Information about the curriculum	9
Information provided about school events	13
Specific information nights	8
Parent/teacher interviews	16
Specific additional meetings to discuss support requirements which exist due to your child's disability	12

Involvement in classroom activities (examples include reading and assistance with excursions)	7
Involvement in school activities (examples include helping out in the canteen, working bees)	9
Information nights by outside organisations	4
School events	10
Join school council/board or parent and friend school committee	10
Other	2

Q 20 HAVE YOU HAD THE OPPORTUNITY TO TALK WITH THE SCHOOL ABOUT INFORMATION YOU THINK IS IMPORTANT FOR YOUR CHILD'S LEARNING?

RESPONSE	RESPONSE RATE %
Yes	93
No	7

Q 21 IF 'YES', DID YOU FEEL LISTENED TO?

RESPONSE	RESPONSE RATE %
Yes	59.5
No	40.5

Q 22 DO YOU THINK THIS INFORMATION HAS HELPED INFORM YOUR CHILD'S EDUCATION PROGRAM?

RESPONSE	RESPONSE RATE %
Yes	59
No	41

Q 23 DO YOU HAVE ANY SUGGESTIONS REGARDING WHAT WOULD IMPROVE YOU AND YOUR CHILD'S SCHOOL TO BETTER WORK TOGETHER TO IMPROVE YOUR CHILD'S LEARNING, EDUCATION AND EXPERIENCE OF SCHOOL?

MAIN RESPONSE GROUPS	NO. OF RESPONSES
More funding and support	203
Better communication and value views of	153
Teacher training & professional development	112
Ensure education (e.g. through IEP or curriculum adjustments) meet the needs of the individual student	66
School cultural issues to be addressed/create inclusive culture	58
Greater involvement/use of expertise of allied health professionals	44

Accountability for education outcomes and use of funding	33
Ensure safety of students (e.g. from bullying and/or abuse)	23

Q 24 HAVE YOU HEARD OF THE NATIONALLY CONSISTENT COLLECTION OF DATA (NCCD) FOR STUDENTS WITH DISABILITY?

RESPONSE	RESPONSE RATE %
Yes	24
No	76

WHAT INFORMATION HAS BEEN PROVIDED TO YOU?

RESPONSE	NO OF RESPONSES
Letter/email	92
None	53
Consent form	25
Received information but not from school	25
Can't recall	25
Survey	3
Other	3

Q 25 HAS YOUR CHILD BEEN INCLUDED IN THE NCCD TO DATE?

RESPONSE	RESPONSE RATE %
Yes	16
No	84

IF 'YES,' WERE YOU CONSULTED AROUND WHAT INFORMATION WAS PROVIDED REGARDING YOUR CHILD AND THEIR SUPPORT NEEDS?

RESPONSE	RESPONSE RATE %
Yes	11
No	89

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

The value and importance of education is firmly embedded in the Australian community and internationally. Not only are the benefits to the individual in terms of life trajectory and outcomes clearly established, there is also “ample evidence of the critical role that education and skills play in fostering social progress.”⁷⁴

⁷⁴ Organisation for Economic Cooperation and Development 2014, *Education at a glance 2014: OECD indicators*, OECD Publishing, p. 13.

At an individual level, international studies have identified a clear link between education attainment and positive outcomes across a range of life areas including employment, poverty and health. This is demonstrated in Organisation for Economic Cooperation and Development (OECD) member nations where the unemployment rate is significantly higher among 25-34 year olds who do not have a tertiary education than for those who do.⁷⁵ Further, in OECD countries, “73 (per cent) of people without an upper secondary education find themselves at or below the median level of earnings, while only 27 (per cent) of university graduates do.”⁷⁶ Low educational attainment is also linked to poor health outcomes, with there being a 23 percentage point difference between those with high and low educational attainment who report being in good health.⁷⁷ Gaps in levels of reported interpersonal trust, participation in volunteering and “the belief that an individual can have an impact on the political process are all closely related to both education and skills levels.”⁷⁸

The benefits associated with access to education also impact society at a broader level, both socially and economically. The OECD has cited “social cohesion and wellbeing” as two social impacts of education.⁷⁹ Further, the same report found that high numbers of people who do not experience the benefits of education in a society is associated with higher costs regarding health, unemployment and income support.⁸⁰

CDA would also like to highlight the specific benefits of inclusive education for students **with and without** disability. **Existing research and evidence clearly supports inclusive education over and above models of segregated and integrated education for students with disability.**⁸¹ Social benefits of inclusive education include exposing children with and without disability to higher levels of interaction, thereby providing more opportunities to “establish and maintain friendships.”⁸² Additional social benefits for **all** students include fostering a positive sense of self-worth, developing skills for interacting with others, developing independence and understanding appropriate behaviour.⁸³ Further, inclusive education has been found in research to “support (all) children in developing increased awareness and acceptance of diversity and understanding of individuality.”⁸⁴

There is clear evidence that demonstrates that inclusive education improves academic outcomes for **all** students. For students **without** disability, inclusive education enables:

- *Increased learning opportunities and experiences;*
- *Overall education is more sensitive to differing student needs;*
- *Growth in interpersonal skills;*
- *Greater acceptance and understanding of human diversity; and*
- *Greater flexibility and adaptability.*⁸⁵

⁷⁵ Organisation for Economic Cooperation and Development 2014, *Education at a glance 2014: OECD indicators*, p. 14.

⁷⁶ *Ibid*, p. 14.

⁷⁷ *Ibid*, p. 14.

⁷⁸ *Ibid*, p. 14.

⁷⁹ *Ibid*, p. 14.

⁸⁰ *Ibid*, p. 14.

⁸¹ Children with Disability Australia 2013, *Inclusion in Education: Towards Equality for Students with Disability*, p. 23.

⁸² *Ibid*, p. 24.

⁸³ *Ibid*, p. 24.

⁸⁴ *Ibid*, p. 24.

⁸⁵ *Ibid*, p. 24.

Benefits of inclusive education are also experienced by teachers, who have been found in research to develop skills and confidence in their work.⁸⁶ OECD research also supports the benefits of inclusive education for societies. It found that countries with equal and inclusive distribution of skills have higher economic output and levels of social equality than countries with larger differences in the distribution of skills across the population.⁸⁷

Finally, it is important to state that the suggestion, as posed by this term of reference for this Inquiry, that the “social, economic and personal benefits of improving outcomes for students with disability at school and in further education and employment” need to be justified is problematic. Education is a fundamental right for all children. To suggest this is different because a child has disability involves ableist assumptions that children with disability cannot learn or contribute to the community.

CDA frequently encounters views such as these at all levels of the community so this term of reference is seen as an opportunity to address those myths. Often an implicit view expressed is that there is in reality no need to educate students with disability. Again, this view is deeply ableist and equates disability with inability. It is fundamental that these views are countered. An education system that shows leadership and commits to reform to ensure students with disability access a quality and education is an essential way to do so.

C. The impact on policies and the education practice of individual education sectors as a result of the More Support for Students with Disabilities program, and the impact of the cessation of this program in 2014 on schools and students.

The Australian Government funded the More Support for Students with Disabilities (MSSD) program which provided \$300 million to government and non-government education providers, with the primary objective of ensuring that “Australian schools and teachers are better able to support students with disabilities, contributing to improved student learning experiences, educational outcomes and transitions to further education or work.”⁸⁸

The funding was targeted at system-wide improvements to education rather than to individual students. This funding was split between independent, Catholic and state/territory education authorities. The program was originally scheduled to run from 2012 to 2013, but was extended for a further year, finishing at the end of the school year in 2014. It included training for teachers and school leaders, equipment and technology, resources for curriculum adaptation as well as the development of specialist centres that can provide resources to schools.

Funding for the MSSD ought to have been in line with funding principles outlined in the Commonwealth’s Students with Disabilities Working Group 2010 report.⁸⁹ This is because the MSSD initiative was “guided by advice provided to the Commonwealth by the Students with Disabilities

⁸⁶ Children with Disability Australia 2013, *Inclusion in Education: Towards Equality for Students with Disability*, p. 25.

⁸⁷ Organisation for Economic Cooperation and Development 2014, *Education at a glance 2014: OECD indicators*, p. 14.

⁸⁸ Council of Australian Governments 2012, *National Partnership Agreement for More Support for Students with Disabilities*, Commonwealth of Australia, Canberra, p. 4.

⁸⁹ Students with Disabilities Working Group 2010, *Strategies to Support the Education of Students with Disabilities in Australian Schools - Report to Minister Peter Garrett AM MP– Minister for School Education*, Commonwealth of Australia, Canberra, p. 10, Council of Australian Governments 2012, *National Partnership Agreement for More Support for Students with Disabilities*, p 2.

Working Group,”⁹⁰ which presumably included the Working Group’s report. The funding principles required any new investments in disability education support by the Commonwealth to (among other things):

*Involve students and parents/carers in the planning, implementation and assessment of the education of students with disabilities, so that education complies with the Disability Discrimination Act.*⁹¹

Given the MSSD was guided by the Working Group’s advice and was a new education investment by the Commonwealth, it is the view of CDA that the Commonwealth ought to have had greater parent/carer consultation and involvement in the planning, implementation and assessment of the MSSD initiative before funding the initiative. This would have been in keeping with the funding principle described above.

MSSD STRUCTURE

The National Partnership Agreement for the MSSD initiative identified seven outcomes:

- (a) Students with disabilities have improved learning experiences and educational outcomes;*
- (b) Schools are better able to meet the educational needs of students with disabilities, in collaboration with parents, carers, and students;*
- (c) Schools become more inclusive environments, in accordance with the Disability Standards for Education 2005, recognising the diversity students with disabilities bring to the school;*
- (d) Principals and school leaders are better able to support teachers and teachers are more capable of identifying and addressing the educational needs of students with disabilities;*
- (e) Teachers of students with disabilities have better access to expert support;*
- (f) Through the evaluation of the initiative, educational policy makers are informed of effective practice under this initiative and long term policy development occurs in an environment well informed about what works to improve the educational outcomes of students with disabilities; and*
- (g) Through the evaluation of the initiative, parents, carers, school leaders, school administrators, teachers and the wider community are better informed about effective practices and strategies that benefit the educational achievement of students with disabilities.*⁹²

12 outputs were included in the program. These are:

- *Providing assistive technology (e.g. computer software, low vision aids, communication tools) to support the teaching and participation of students with disability;*
- *Providing training for teachers to strengthen their skills in the use of assistive technology in the classroom;*
- *Developing support centres which serve as a centre of expertise in the educational needs of students with disability and provide expert support to a group of other schools that may not have this expertise;*

⁹⁰ Council of Australian Governments 2012, *National Partnership Agreement for More Support for Students with Disabilities*, p. 2.

⁹¹ Students with Disabilities Working Group 2010, *Strategies to Support the Education of Students with Disabilities in Australian Schools - Report to Minister Peter Garrett AM MP– Minister for School Education*, p. 10.

⁹² Council of Australian Governments 2012, *National Partnership Agreement for More Support for Students with Disabilities*, p. 4.

- *Schools coordinating with health/allied health or other professionals to strengthen schools' support for students with disability;*
- *Providing training for pre-service and/or practicing teachers to build their skills in special education;*
- *Providing training for all school staff to improve understanding of their obligations under the Disability Standards for Education 2005 and how to meet those obligations. Supporting school principals and/or school leadership teams to strengthen teachers' ability to assist students with disability;*
- *Supporting school staff to assess the current learning level of students with disability, adapt the teaching curriculum to suit their current level of ability and report on student progress against adapted curriculum;*
- *Supporting teachers to develop or modify lesson plans to suit the needs of students with disability;*
- *Supporting teachers to meet the needs of students with disability through collaborative teaching practices (aka team teaching);*
- *Engaging paraprofessionals (aka teacher's aides) to strengthen their skills in supporting students with disability; and*
- *Providing additional support for students with disability to transition effectively between stages of schooling and/or from school into further education, training or employment.⁹³*

ISSUES OF CONCERN

The capacity building focus of the MSSD has been an important part of the overall reform, but its limited funding and time frame mean that there is an imperative to build in ongoing systemic capacity building expectation in education reform for students with disability.

The effectiveness of the MSSD initiative is unclear. It is understood that the extensions to this funding were granted prior to the initial evaluations being completed of the first two years of this initiative. The final evaluation report was due to be released in June 2015 but has been delayed reportedly pending Ministerial approval of its release.

It is understood by CDA that there are a total of five evaluation reports which have been completed by Phillips KPA pertaining to the evaluation of the MSSD initiative. Except for a report (not final) which relates to the MSSD in New South Wales, the only evaluation report available is the one dated November 2013. This is no longer available on the Australian Government Department of Education and Training Website and only appears to be accessible through the Phillips KPA website.

It should be noted that clause 43 in the MSSD National Partnership Agreement requires the Commonwealth's MSSD evaluations, which presumably include MSSD evaluation reports, to be "made available online to all members of the community including parents, families, teachers, schools and other education practitioners."⁹⁴ It is therefore unclear why all of these reports are not publically available and there are many unanswered questions as a result.

Without access to MSSD evaluation reports it is difficult to ascertain the extent that programs delivered under this initiative have or have not met the stipulated outcomes and outputs. Further it is not known if consistent and rigorous research methodology has been used to evaluate the programs delivered. It is particularly unclear what role the direct experience of students with disability and their families have had in informing the evaluation of this initiative.

⁹³ Council of Australian Governments 2012, *National Partnership Agreement for More Support for Students with Disabilities*, pp. 5-6.

⁹⁴ *Ibid*, p. 9.

The MSSD program was a bolt on program outside the core funding and policy model for education. It was not designed as an embedded reform and the short timeframe of the initiative limited its ability to create systemic change. The initiatives were linked to the broader education reform occurring, particularly the *Australian Education Act 2013* and work to establish the loading for students with disability. Further clarity is required regarding how the learnings and outcomes of this initiative will inform the development of the disability loading.

Recommendation 21: All evaluations of the MSSD programs, including detailed information about the methodology used be publically released.

Recommendation 22: Obtain information from students and families regarding direct experiences of the MSSD. This must inform future education reform for students with disability.

Recommendation 23: Provide clarity regarding how the learnings of the MSSD program will inform education reform for students with disability, including the loading for students with disability.

E. The progress of the implementation of the needs-based funding system as stated in the Australian Education Act.

The *Australian Education Act 2013* legislated a new model for the provision of Commonwealth funding to schools across Australia and provided principles and objectives to frame negotiations between the states, territories and Commonwealth regarding school funding arrangements.⁹⁵ Under the Act, schools are provided with a base amount of funding for each student enrolled (the Schooling Resource Standard or SRS).⁹⁶ Students who have been identified as requiring additional support also receive an additional funding loading. These include students with disability, Aboriginal and Torres Strait Islander students, students with a low socio-economic status and students with low English speaking proficiency.⁹⁷ This section will focus on the loading for students with disability rather than broader components of the needs-based funding system.

The Australian Education Act contains only temporary provisions for the funding of schools for students with disability.⁹⁸ This was calculated at 223 per cent of the respective SRS for students attending special schools and 186 per cent for students with disability who attend mainstream schools.⁹⁹ There was a clear expectation that the loading for students with disability would be finalised during 2014 and be implemented in 2015.¹⁰⁰

The timing and development of the loading for students with disability is unclear. The program of work to finalise the loading has been fluid meaning that there is significant risk to achieving the required reform outcomes for students with disability. While the legislation has set out a new funding model from 2014 in all other areas of education funding, the status quo has prevailed for students with disability.

⁹⁵ *Australian Education Act 2013 (Cth)*.

⁹⁶ *Ibid*, p. 3, s.31.

⁹⁷ *Ibid*, p. 3, s.31.

⁹⁸ *Explanatory statement, Select legislative instrument 2013 No 195, Commonwealth of Australia, Canberra, s. 17.*

⁹⁹ *Australian Education Regulation 2013*, p. 1, s.17.

¹⁰⁰ Council of Australian Governments 2013, *National Education Reform Agreement*, Commonwealth of Australia, Canberra, p. 23, 27.

PROGRESS TO DATE

In November 2013, the following information regarding the timeline for the development of the loading was provided in Senate Estimates:

The (National Education Reform Agreement) commits state and Commonwealth governments to applying a loading for students with disability from 2015. What steps is the Department taking to finalise arrangements for this loading? What are the key steps that will be undertaken before implementation and on what date is each step expected to be completed? Will the loading start to flow to schools at the beginning of the 2015 school year?

The Australian Government Department of Education is working with states and territories and non-government education authorities through the Strategic Policy Working Group to develop the new funding loading formula.

The Nationally Consistent Collection of Data on School Students with Disability (NCCD) is being progressively phased in over 2013-2015 and will form a key piece of evidence for the funding loading formula. Work is also underway to identify the additional resources being provided to support the three levels of adjustment (supplementary, substantial and extensive) as per the NCCD.

These two streams of information will inform the new funding loading formula for students with disability from 2015.

The project to collect data on the additional resources will be undertaken in government, Catholic and independent schools over the period from mid December 2013 to September 2014:

- *December to February 2013 – development of the data collection methodology; development, refinement and testing of the data collection tool; development of user guides; establishment of relationships with schools and orientation;*
- *March 2014 - piloting of the survey instrument in eight schools nationally to collect the data on the costs of adjustment;*
- *April 2014 - data to be collected about the costs of adjustments for students with disability from a target sample of at least 120 schools (6500 target students) nationally;*
- *June 2014 - due date for final report for the project; and*
- *September 2014 - consideration of findings by the Strategic Policy Working Group.*¹⁰¹

The 2014 budget of the Abbott Government confirmed changes to the previous Government's education reforms, with school funding from 2018 to be based on 2017 levels indexed at the Consumer Price Index (CPI).

The current Australian Government have expressed a clear commitment to developing the disability loading. The Liberal-National Coalition policy statement released prior to the 2013 federal election stated "the Coalition will match the Commonwealth funding committed by Labor to extend support for students with disabilities for twelve months [through the MSSD], while a new 'loading' formula is

¹⁰¹ Senate Standing Committee on Education and Employment 2014, *Questions on notice: supplementary budget estimates 2013-2014*, Commonwealth of Australia, Canberra, viewed 31 March 2014, http://www.aph.gov.au/~media/Estimates/Live/eet_ctte/estimates/supp_1314/answers/ED0022_14.ashx.

developed for these students.”¹⁰² Further, the Prime Minister, stated on 3 December 2013 that the “loadings will be fully delivered over the coming four years.”¹⁰³

In direct correspondence to CDA on 14 January 2014, the Minister for Education and Training, wrote that the Australian Government “have demonstrated our commitment to needs based funding by ensuring that adequate funding has been set aside in the Commonwealth budget over the next four years to pay for the base funding and loadings that recognise student disadvantage for all schools, regardless of state or sector.” The correspondence provided a timeline for calculating the final loading, including a consultation scheduled for June 2014, with the findings of the review set to be available for consideration by 1 January 2015.

CDA attended the consultation regarding the ‘finalisation of the students with disability and English language proficiency loadings and review of the low socio-economic status loading’ on 13 August 2014 in Melbourne. The total time allocated to the “finalisation of the loading for students with disability” was 90 minutes (with approximately 30 minutes being presentation of information largely available on the Department of Education and Training website). A total of 78 participants attended and there were minimal opportunities within the session to ask questions or provide meaningful input.

In July 2014, the Senate Select Committee on School Funding released its report, *Equity and excellence in Australian schools*. The Committee reported significant uncertainty regarding the development of the loading for students with disability.¹⁰⁴ It found that students with disability would be severely impacted if the loading was not in place by 2015.¹⁰⁵ The report states “the Department of Education is undertaking work to develop a disability loading, and advised the committee that a report would be presented at First Ministers in January 2015.”¹⁰⁶

In October 2014, the COAG Education Council reported that the data collected through the NCCD was “not yet of sufficient quality to provide the information required to inform funding arrangements for students with a disability.”¹⁰⁷

The 2015 federal budget did not set aside funds for the implementation of the final loading. The Minister for Education and Training’s media release following the budget announcements stated that “students with a disability will receive the extra support they need with a record \$1.3 billion being provided in 2015–16, and more than \$5 billion over 2014–17 through the funding loading for students with a disability.”¹⁰⁸ It is the understanding of CDA that funding is provided through the interim loading which maintains existing levels of provision and indexation. The final disability loading has still not been implemented and there continues to be a lack of clarity regarding the timeline for its development.

¹⁰² Liberal National Coalition 2013, *The Coalition’s policy for schools: Students first*, viewed 25 August 2015, <http://goo.gl/uXfp99>.

¹⁰³ T Abbott 2013, *House of Representatives Official Hansard, 3 December 2013*, Commonwealth of Australia, Canberra, viewed 25 August 2015, <http://goo.gl/dlFAo8>.

¹⁰⁴ Senate Select Committee on School Funding 2014, *Equity and excellence in Australian schools*, Commonwealth of Australia, Canberra, p. 121.

¹⁰⁵ *Ibid*, p. 123.

¹⁰⁶ *Ibid*, p. 123.

¹⁰⁷ Education Council 2014, *Communique – Education Reform Council Meeting 31 October 2014*, Council of Australian Governments, Canberra, viewed 24 August 2015, <http://goo.gl/L6segr>.

¹⁰⁸ C Pyne 2015, *Education and training: Skills and knowledge for a prosperous Australia*, Commonwealth of Australia, Canberra, viewed 25 August 2015, <https://goo.gl/ColWPY>.

Representatives of the Australian Government Department of Education and Training have also indicated in Senate Estimates that the development of the loading will occur when NCCD on all schools is collected.¹⁰⁹ Senator Deborah O’Neill asked if “the loading adjusted and informed by the NCCD could happen at any time in 2016?” Mr Tony Cook, Associate Secretary of the Australian Government Department of Education and Training then stated, “I think the Minister has indicated it will happen in 2016. When the money will flow is a matter for the government.”¹¹⁰

CONCERNS

There is a great deal yet to be finalised and negotiated before the introduction of the loading, but what is of central concern is the lack of clarity about the process that will be undertaken to deliver a coherent and effective funding model. There has never been a clear program of work to develop the loading, and there has only been minimal meaningful consultation and involvement of groups outside of government in this work.

A significant concern of CDA’s relates to the uncertainty regarding the reform outcomes. There has been no clear articulation of the overarching goals and outcomes that are expected to be achieved through implementing the loading. Nor has there been a clear articulation of what systemic expectations will underpin the reform process. The *Australian Education Act 2013* contains clear underlying principles in relation to equity and fairness and provided targets for educational attainment measured through international rankings. How this piece of education reform will be linked to those principals and targets is to date is uncertain. CDA has repeatedly requested clarification around the high level goals that are hoped to be achieved through the disability loading, however has received no clear response to date.

At present, the focus of reform seems to be on quantifying individual levels of adjustment and associated costs. However, there is a lack of information regarding how systemic adjustment will be incorporated in the reform, for example to promote a culture of inclusive education. Further, CDA is not aware of what qualitative improvements will occur through the establishment and implementation of the loading and how it envisages it will improve outcomes for students with disability. There is presently no information available regarding how this will be measured.

There is no explanation of why special schools attract a higher loading, or what their provision needs to include and deliver, or on what evidence this decision was based. In June 2013 the Labor Government announced a \$76 million funding boost for special schools to assist with their higher costs. A detailed analysis of the provision and funding arrangements for special schools needs to be a key component of the work to design the disability funding model

The Australian Education Act contains no specific provisions governing accountability for the loadings, including the temporary disability loading. Lack of accountability is a significant issue in state and territory programs that has been identified as a barrier to improved provision and productive involvement of students and parents in schools.

CDA would like to contribute to the development of the loading. CDA is able to provide representation regarding the direct experience of students with disability and their families and other considerable professional expertise the organisation has regarding children and young people with disability. Both of these processes appear to offer very limited opportunity to consult with CDA or other related stakeholders. They appear to rely extensively on information provided by education authorities.

¹⁰⁹ T Cook 2015, *Education and Employment Legislation Committee Senate committee, Estimates, Final*, 4 June 2015, p. 151.

¹¹⁰ *Ibid*, p. 151.

The area of disability funding has proven to be of the most difficult part of the present education reform process to deliver. Like many areas of public policy there is no silver bullet. We must begin to approach the funding system for students with disability in a fundamentally different way. It is not simply a political or bureaucratic problem to solve, but a central area of Australia's education system. As such it needs to be brought to the centre of the funding model, not continue to languish at the periphery where it has been left for more than a generation. We must prioritise the addressing of the gross disadvantage that characterises the education experiences of students with disability. CDA therefore recommends that the disability loading be finalised and implemented as a matter of urgency.

Recommendation 24: Finalisation and implementation of the loading for students with disability as a matter of urgency.

Recommendation 25: The articulation of a clear strategy by the Australian Government Department of Education and Training and/or the COAG Education Council, that details how the disability loading is designed, how it will be implemented and what specific outcomes it will achieve in education systems.

Recommendation 26: That clarification be provided regarding whether the implementation of a disability loading will result in nationally consistent implementation and if so it is critical that a clearly articulated transition process is articulated and publicly available.

Recommendation 27: The undertaking of a detailed analysis of the provision and funding arrangements for special schools.

F. The progress of the Nationally Consistent Collection of Data on School Students with Disability and the findings, recommendations and outcomes from this process, and how this data will, or should, be used to develop a needs-based funding system for students with disability.

CDA provided information and comment on the progress of the National Consistent Collection of Data on School Students with Disability (NCCD) to the Senate Select Committee on School Funding *Inquiry and report on the development and implementation of national school funding arrangements and school reform* in March 2014. This is cited extensively below but has been updated to reflect CDA's understanding and views after considering the progress of this initiative over the last 18 months.

The need for an agreed national definition of disability and a better way of understanding the nature of educational adjustments has been on the table for some years. The Review of Funding for Schooling (the Gonski Review) found that the lack of consistency and quality of data about students with disability across education systems was a significant barrier to recommending a funding loading. The review recommended that jurisdictions collaborate to collect national data and agree on a consistent definition of 'disability' that could be used in the funding model.

The COAG Standing Council on School Education and Early Childhood (SCSEEC, now the Education Council) agreed in May 2013 to undertake the NCCD on school students with disability over three years to inform the development of the disability loading. The model developed does not use the traditional diagnostic approach to disability, instead it takes a functional approach by seeking data on the level of adjustment required by students. Following two trials in 2011 and 2012, the data

collection commenced in October 2013. The evaluation report of the 2012 trial that was prepared by PricewaterhouseCoopers (PwC).¹¹¹

Overall the report stated that the model was robust enough to proceed to full implementation, however some major risks and challenges were identified that needed to be addressed. It was noted that there were significant gaps in awareness of disability and adjustment throughout all school systems so targeted training and preparation through detailed preparation for the data collection was required. Two particular problems identified were a) the data collection model required teachers with little or no training and experience in inclusive education to make sophisticated judgments about the level and types of adjustments students may require and b) the models attempted to collect data about individual adjustments in special schools where the whole setting is itself adjusted. It is CDA's view that these issues are still unresolved areas of concern in the current data collection process.

Another report entitled *2014 survey on the additional resourcing provided for levels of adjustment for students with disability* was completed. For this report PwC were engaged by the Australian Government Department of Education and Training to "collect information on the additional resourcing provided for levels of adjustments for students with disability."¹¹² PwC was asked to:

- *Derive an estimated average per-student cost for the three levels of adjustment that schools identified through the NCCD (supplementary, substantial and extensive); and*
- *Determine how different factors impact average per-student costs.*¹¹³

Findings of note included:

- **Special schools were not included in the calculations of per student costs.** A further discussion regarding special schools is included in term of reference J of this submission;
- **Adjustments of typical teaching practices that accommodate variability in the needs of all students were not included in assessments of level of adjustment required.** While it is recognised that these are not individual adjustments it is important that these are captured as future funding reform is contemplated. A truly inclusive education system would have these adjustments as a significant proportion of education provision. Initially, additional expense may be incurred as education providers learn how to make and implement these adjustments in practice but it is anticipated that a consequence in many instances would be a reduction in the amount of individual modification required;
- **Time invested by volunteers and parents/carers to support students with disability was not included in assessments of levels of adjustment required.** It is commonly reported to CDA that a significant amount of additional time, energy and expense is invested by families and others, to students with disability as a consequence of the inadequacies of the current education system. For example, many families invest extensively in tutoring as a child is not seen as receiving adequate or appropriate assistance at school due to failure to identify learning support needs. These needs and costs need to be considered when ascertaining levels of adjustment required;
- **Inconsistencies with identifying students with disability due to short time frames, difficulty obtaining consent and schools misunderstanding guidance materials.** These issues are addressed in the following discussion; and

¹¹¹ PricewaterhouseCoopers 2013, *2012 trial of the Nationally Consistent Collection of Data on School Students with Disability*.

¹¹² PricewaterhouseCoopers 2014, *2014 survey on the additional resourcing provided for levels of adjustment for students with disability*, Australia, p. iii.

¹¹³ *Ibid*, p. iii.

- **The limitations in the design and execution of the data collection process can be addressed to ensure more consistency.** It is important to note that having more consistent data methods in itself does not ensure that the process is accurately measuring what is required.

It is known through the direct experience of students with disability and their families that the system has chronically failed to provide crucial educational adjustments. This was also borne out in the initial NCCD trials and in reports and statistics available. These include the trial report by PwC on the NCCD,¹¹⁴ the Productivity Commission *Report on Government Services*,¹¹⁵ the Australian Institute of Health and Welfare's 2008 *Making Progress* report¹¹⁶ and the Victorian Equal Opportunity and Human Rights Commission *Held Back* report in 2012.¹¹⁷ All of these sources clearly demonstrate that the number of identified students with disability requiring support is significantly greater than those receiving it. Documentation regarding the NCCD however indicates that the data collection is measuring the present level of adjustment provision not the actual level of need. If this is the case it is uncertain how this data will accurately inform the development of a disability loading.

Additionally it is common for there to be disagreement between schools and families and/or other allied health professionals on the level and type of adjustment required for individual students. Another frequent scenario is that schools are reported to not accurately identify or understand that a child has a disability or learning difference. Presently there is limited capacity for families or allied health professionals with extensive knowledge of the student to directly input into the NCCD process. It is unclear how these areas of dispute will be considered when judgements are made regarding adjustment levels.

It is also of considerable concern that the NCCD data collection process is now totally based on an "opt out" consent basis with there being increasingly limited requirements by schools to proactively inform families about the NCCD in each successive year of this initiative's implementation. It is now possible for a child to be labelled as disabled and included in the NCCD without any communication occurring with the family.

The available parent fact sheet which is on the current Department of Education and Training website states "parents and carers will be engaged in consultations with school staff as part of the process for determining the educational adjustments provided for their child as required under the *Disability Standards for Education 2005*. Evidence of this consultation is required for a student to be included in the national data collection."¹¹⁸ The process for ensuring evidence of consultation is not clear to CDA and families are overwhelmingly reporting to CDA that they don't know what the NCCD is and whether their child is included in this initiative.

It is still unclear what the strategy will be regarding the use or analysis of the data or how it will guide the design and implementation of the loading, or what specific outcomes it will achieve in education systems. It appears, particularly from the 2014 PwC report that the NCCD is the sole informant of the disability loading.

¹¹⁴ PricewaterhouseCoopers 2013, *2012 trial of the Nationally Consistent Collection of Data on School Students with Disability*.

¹¹⁵ Productivity Commission 2015, *Report on Government Services*, Commonwealth of Australia, Canberra.

¹¹⁶ Australian Institute of Health and Welfare 2008, *Making Progress: The health, development and wellbeing of Australia's children and young people*.

¹¹⁷ Victorian Equal Opportunity and Human Rights Commission 2012, *Held back: The experiences of students with disabilities in Victorian schools*.

¹¹⁸ Council of Australian Governments 2015, *2015 information for schools*, Commonwealth of Australia, Canberra, viewed 26 August 2015, <https://goo.gl/kag6Bj>.

CDA believes it is imperative that any new funding system will enable all schools to have the capacity to provide an inclusive education to all students with disability. The NCCD focuses on the level of individual adjustment required by each student identified through this process. It is noted that consideration of individual adjustments and support is critical when developing a revised model of funding for students with disability. However, the provision of an inclusive education system for students with disability requires much more than just a collection of individual adjustments. It remains unclear how system wide reforms will be funded and implemented under the proposed new funding model.

Furthermore it is vital that the NCCD process is rigorously and regularly evaluated and is appropriately refined to ensure it captures accurately the level of individual adjustment required by ALL students with disability

Recommendation 28: Clarification is made as to whether NCCD measures present provision or actual level of adjustments required.

Recommendation 29: Requirement for consultation with families and allied health professionals to provide input into NCCD process.

Recommendation 30: Mandatory recording of information where there is contention regarding level of adjustment required between the schools and other parties. A timely independent dispute resolution system needs to be available where there is unresolved conflict.

Recommendation 31: Establishment of comprehensive training for teachers in relation to the NCCD which includes disability awareness and adjustment, inclusion in education as well as what is presently in place in relation to data input specifics to the particular Information Technology program involved.

Recommendation 32: Data to be collected through the NCCD upon receiving written consent from the student's guardian, rather than requiring families to opt out if they do not want their children to participate. A clear process and accountability mechanisms regarding obtaining consent for children's participation in the NCCD also needs to be developed.

Recommendation 33: Clear and consistent information be provided to all families regarding the NCCD including what information is collected, how it is being used and how decisions are made regarding assessments of adjustments made for each child.

Recommendation 34: All existing evaluation reports pertaining to the NCCD are publicly released.

Recommendation 35: Following full rollout of the NCCD process an independent evaluation is conducted, which incorporates input from students and families and rigorously examines the reliability and validity of the process.

G. How possible changes as a result of the Nationally Consistent Collection of Data on School Students with Disability will be informed by evidence-based best practice of inclusion of students with disability.

As has been previously stated in this submission, the NCCD is focused of gathering information regarding the quantum of funding. It is believed that it will not provide any information regarding the quality of supports needed and how funding for students with disability should be used. Further,

the previously discussed absence of a clear articulation of underpinning goals and strategies to guide funding reform for students with disability mean that considerations of “evidence-based best practice of inclusion” have been largely missing from this component of the reform process. For example, it is unclear why special schools attract a higher funding level and what evidence this is based upon.

It is imperative that education reform for students with disability progresses with an evidence base. Funding is highly important but equally critical is the need to ensure that funding is used to provide evidence-based, appropriate supports that will support the learning of each student. There is a clear need for accountability in this area. For example, a risk may be that funding is used to fund more individual support workers or aides, which may not be appropriate for each student and can act as a barrier to inclusion.

Further, CDA has noted that the development of the loading for students with disability has been delayed on the basis that the NCCD data was not of ‘sufficient quality.’ Accurate costs have been positioned as a fundamental precursor to the implementation of reform. It is the view of CDA that the limitations in data should not be used as a justification to further stall much needed reform.

CDA notes that the National Disability Insurance Scheme (NDIS) commenced with rough projections regarding unmet need rather than complete data detailing demand for the Scheme. Population estimates for the Scheme were detailed in the Productivity Commission’s 2011 Inquiry report into Disability Care and Support.¹¹⁹ A lack of complete data was not a blockage to this reform and CDA sees no reason why this approach could not also be applied to education reform for students with disability, which could be adapted as further data and research is made available.

The development of mechanisms to measure educational progress, outcomes and attainment of students with disability is critical to evaluating whether reform is making a difference in the daily education experiences of students with disability. These also need to be embedded into reform.

Recommendation 36: Limitations in data not be used as a justification to further delay further progress of reform for students with disability.

Recommendation 37: Economic modelling be undertaken which provides a cost-benefit analysis of provision of adequate education for students with disability in relation to life outcomes.

H. What should be done to better support students with disability in our schools.

CDA is of the view that a national plan should be established in relation to education and students with disability. It is imperative that this has clearly articulated aims, objects and measureable outcomes. As has been emphasised throughout this submission and in the innumerate amount of feedback provided by a range of stakeholders, funding reform alone will not allow the breadth of reform required to ensure students with disability are afforded their rights to an inclusive education in Australia. There are a number of reform areas which cannot simply be rolled into the funding loading and a separate reform agenda is clearly needed.

As previously discussed, CDA believes that the program and progress for reform regarding the education of students with disability has been significantly impeded by a lack of clear goals and outcomes for the reform. Throughout the course of the recent reform process, a clear picture

¹¹⁹ Productivity Commission 2011, *Disability care and support: Productivity Commission Inquiry report overview and recommendations*, Commonwealth of Australia, Canberra, p. 15.

regarding what the desired outcome is has been lost. At this point, it is critical that there is a re-evaluation of what we want to achieve through education reform for students with disability.

The overarching vision of the reform needs to align with Australia's human rights obligations pertaining to the education of students with disability, articulated in the CRC, CRPD and the National Disability Strategy. Any national education plan must therefore be oriented towards ensuring students with disability can access a quality, inclusive education that will support opportunities and participation in the community.

Further, the plan needs to be guided by evidence regarding inclusive education. Inclusive education is a fundamental right of all students and it is therefore imperative to ensure that this option is available for every child. Creating an inclusive education system will not happen overnight. Recognition that this is not a choice afforded to every student with disability needs to occur. A detailed national plan, again informed by evidence based best practice, needs to be developed and implemented to ensure that a fundamental cultural shift occurs that ensures students with disability are welcome and valued members of all school communities. A national plan needs to ensure that equal rights to participation are afforded and a lived reality for every student with disability.

A national plan for students with disability should include:

- A blueprint for embedded and systemic reform;
- Clearly articulated vision and aims;
- Measurable outcomes;
- A program for reform which is grounded in a strong evidence base and research regarding best practice;
- A timeline and objectives that would ensure commitment from governments and education systems to the ongoing reform with built in and clearly articulated roles for education sectors, students and families;
- The disability loading and funding arrangements;
- Actions to support the development of a nationally consistent framework for funding which includes conditions for how the student loading for students with disability could be utilised;
- Actions to embed the capacity building efforts of the More Support for Students with a Disability National Partnership as a permanent feature of education reform;
- Actions to support the creation of robust accountability measures including a monitoring, evaluation and reporting and improvement framework with commitments to regularly release information about implementation; and
- Specific and focused actions to address current seclusion and restraint of students with disability within schools settings.

The development of the strategy must include open, accessible and transparent consultation with a wide range of stakeholders. It is paramount that current and former students with disability and families and CDA as the national representative body, have ample opportunities to contribute. This is critical to ensuring that the reform process is informed by the direct experiences of students with disability.

The direct experiences of students with disability clearly demonstrate that reform cannot be restricted to bolt-on programs or short-term initiatives. The ultimate reform that occurs therefore needs to be system wide and embedded, so it can affect meaningful change in the education experiences of students with disability. A clear timeline for reform should also be developed to ensure there is no further slippage in this much needed reform.

Finally, given that the provision of education is divided between multiple jurisdictions in Australia, it will be necessary to engage the various parties. A partnership approach between the states, territories, Commonwealth, and non-government education providers is seen as an effective approach to ensure that all relevant stakeholders are involved and invested in improving the education experiences of students with disability.

Recommendation 38: Development of a national plan for education reform and students with disability.

POLITICAL LEADERSHIP

The importance of strong political leadership regarding reform for students with disability cannot be overemphasised. CDA believes that a critical aspect and turning point for the review of services and supports for people with disability, which greatly contributed to the establishment of the NDIS, was recognition and admission that the present system was grossly inadequate. This has not yet happened in relation to education and students with disability. There has been qualified public recognition that there is a need for reform but the depth and the significant impact of the inadequacies of the current education system and impact it is having on most students with disability has not been acknowledged by any political leader.

It is time for the message to come clearly from our political leaders that the education system for students with disability is broken and there is an urgent and critical need for reform. There are no clearer reasons than the direct experiences of students with disability, reflected by the 219 examples given in this submission. Strong and ardent political leadership on this issue is imperative.

Recommendation 39: The provision of strong political leadership regarding the urgent and critical need for education reform for students with disability.

SPECIFIC REFORM AREAS – SUMMARY OF RECOMMENDATIONS

Recommendation 1: Collection of national data regarding rates of enrolment in distance education and home schooling of students with disability, including the reasons for enrolling in these options.

Recommendation 2: Collection of national data regarding rates of part time attendance in schooling of students with disability.

Recommendation 3: Collection of national data regarding rates of suspension and expulsion of students with disability.

Recommendation 4: Further education and information must be provided to all staff within education systems on the *Disability Standards for Education 2005*.

Recommendation 5: Further education and information be provided to all families, and students where relevant, on the *Disability Standards for Education 2005*. This includes placing them on every school and education authority website. In addition, the family of every student identified in the NCCD should be given a hard copy of the Standards.

Recommendation 6: Development of a system for recording reported breaches of the *Disability Standards for Education 2005* regarding: denial of enrolment and full time attendance; conditional enrolment; and discrimination regarding physical accessibility. There needs to be capacity within this notification system to monitor if multiple reports pertaining to particular schools or education authorities occurs.

Recommendation 7: Establishment of a new independent complaints mechanism which would allow more expedient review and resolution of alleged breaches and appropriate sanctions for proven instances of discrimination for both the school and education authority involved. The number and type of breaches, at the school, state/territory and national level should be clearly available to the public on school and educational authority websites and/or the *MySchool* website or the like. In some jurisdictions, there are concerns that many cases are settled in confidential mediation to avoid precedent being set or public knowledge of circumstance.

Recommendation 8: Development of mechanisms to ensure that all adjustments made to facilitate the learning and participation of students with disability are based in evidence.

Recommendation 9: Implement requirements for education in inclusion and disability studies in pre-service and in-service education for all teachers and all other staff involved in supporting inclusive education.

Recommendation 10: The mandatory establishment and implementation by all schools of an inclusion plan which identifies how the school provides equal opportunities for learning and participation for ALL students, including students with disability, and how the school recognises and values the diversity of all learners within its culture and practice.

Recommendation 11: Development of nationally consistent guidelines and requirements regarding the development and implementation of individual education plans that is informed by best practice, notably a 'family-centred' approach.

Recommendation 12: Clear accountability mechanisms are contained within relevant legislative instruments that provide transparent processes for monitoring and responsibility of learning outcomes for students with disability. These could mandate the development of individual education plans and establish a formal process to ensure progress in identified learning targets.

Recommendation 13: Collection of national data regarding post school outcomes for students with disability immediately and in the first three years following school.

Recommendation 14: Development of policies and procedures for schools regarding communication with families of students with disability.

Recommendation 15: Establishment of an oversight body, or the inclusion of schools within existing statutory authorities for example the Office of Professional Practice in Victoria, for the use of restraint and seclusion in schools that must authorise the use of restrictive practices beyond a first unplanned emergency. This body should also record national data on the use of restraint and seclusion regardless of setting. Schools would therefore be required to collect data on all incidents where restraint or seclusion occurs.

Recommendation 16: Development of policy and/or legislation mandating the development and implementation of Positive Behaviour Support plans, ensuring that adequate training has been undertaken by those developing and implementing plans, including educational staff.

Recommendation 17: Development of policy mandating notification of families within an identified acceptable time period if their children are subjected to restraint and seclusion at school.

Recommendation 18: Commissioning of national research into prevalence and experiences of bullying of students with disability.

Recommendation 19: Development of an 'anti-ableism' policy for schools by state and territory education departments providing clear objectives, the legislative context and rights imperatives, responsibilities and monitoring and evaluation. Examination of state based anti-racism and anti-sexism policies may be relevant to inform the policy.

Recommendation 20: The establishment of an independent mechanism for complaints regarding education settings, which allows disputes to be resolved in a timely manner.

Recommendation 21: All evaluations of the MSSD programs, including detailed information about the methodology used be publically released.

Recommendation 22: Obtain information from students and families regarding direct experiences of the MSSD. This must inform future education reform for students with disability.

Recommendation 23: Provide clarity regarding how the learnings of the MSSD program will inform education reform for students with disability, including the loading for students with disability.

Recommendation 24: Finalisation and implementation of the loading for students with disability as a matter of urgency.

Recommendation 25: The articulation of a clear strategy by the Australian Government Department of Education and Training and/or the COAG Education Council, that details how the disability loading is designed, how it will be implemented and what specific outcomes it will achieve in education systems.

Recommendation 26: That clarification be provided regarding whether the implementation of a disability loading will result in nationally consistent implementation and if so it is critical that a clearly articulated transition process is articulated and publicly available.

Recommendation 27: The undertaking of a detailed analysis of the provision and funding arrangements for special schools.

Recommendation 28: Clarification is made as to whether NCCD measures present provision or actual level of adjustments required.

Recommendation 29: Requirement for consultation with families and allied health professionals to provide input into NCCD process.

Recommendation 30: Mandatory recording of information where there is contention regarding level of adjustment required between the schools and other parties. A timely independent dispute resolution system needs to be available where there is unresolved conflict.

Recommendation 31: Establishment of comprehensive training for teachers in relation to the NCCD which includes disability awareness and adjustment, inclusion in education as well as what is presently in place in relation to data input specifics to the particular Information Technology program involved.

Recommendation 32: Data to be collected through the NCCD upon receiving written consent from the student’s guardian, rather than requiring families to opt out if they do not want their children to participate. A clear process and accountability mechanisms regarding obtaining consent for children’s participation in the NCCD also needs to be developed.

Recommendation 33: Clear and consistent information be provided to all families regarding the NCCD including what information is collected, how it is being used and how decisions are made regarding assessments of adjustments made for each child.

Recommendation 34: All existing evaluation reports pertaining to the NCCD are publicly released.

Recommendation 35: Following full rollout of the NCCD process an independent evaluation is conducted, which incorporates input from students and families and rigorously examines the reliability and validity of the process.

Recommendation 36: Limitations in data not be used as a justification to further delay further progress of reform for students with disability.

Recommendation 37: Economic modelling be undertaken which provides a cost-benefit analysis of provision of adequate education for students with disability in relation to life outcomes.

Recommendation 38: Development of a national plan for education reform and students with disability.

Recommendation 39: The provision of strong political leadership regarding the urgent and critical need for education reform for students with disability.

Recommendation 40: The National Disability Insurance Agency and the Australian Government Department of Education and Training continue to work collaborative to define the complex interface issues, which exist between the parallel reforms.

Recommendation 41: Ongoing consultation occurs with CDA regarding the direct experiences of students with disability in education and the impact on this crucial interface issue.

I. The early education of children with disability.

CDA is also frequently informed of poor early childhood education experiences of children with disability. Children with disability frequently experience significant barriers in relation to access, participation, resourcing, expertise and discrimination in relation to early childhood education. There are huge variations between individual childcare and early childhood learning providers in relation to attitudes and capacity to meet the needs of children with disability. This section will provide a brief overview of the experiences of children with disability accessing early childhood education. Two submissions provided to the Productivity Commission’s Inquiry into Childcare and early childhood learning (appendices A6 and A7) provide further information.

Statistics available on participation rates illustrate a disparity between the use of childcare by children with disability compared to their peers without disability. The Productivity Commission’s Report on Government Services 2015 shows that children aged 0-12 years with disability had a lower representation in childcare services (3.0%) than their representation in the community (6.7 per cent).¹²⁰

¹²⁰ Productivity Commission 2015, *Report on Government Services*, p. 3.24.

Experiences reported to CDA include:

217. *(My son) was 18 months old when he was excluded from day care. They had no interest at all in assisting him. I only found out after leaving from a staff member, that he was left restrained in a high chair for long periods of time – Parent.*

218. *Our first disappointment was when our daughter could not attend three year old kindergarten as there was no funding available for a teacher's aide. All the doctors and therapists at the hospital insisted that early intervention is the key to her improving her skills but it is a little bit hard when our education system does not support this – Parent.*

219. *We found the only option in terms of special needs assistance was a local community based pre-school which could only offer two days per week. We were lucky to get a place as the waiting list was over three years long. We had to also place our daughter into a private childcare centre the other three days. Although the intention of the staff was very good there just wasn't the time or expertise to support (my daughter). It was heart breaking to watch as she spent most of her pre-school days hiding under a table – Parent.*

In recent years there has been a range of reforms in the childcare sector under the COAG Early Childhood Reform Agenda. In 2009 COAG agreed to the National Early Childhood Development Strategy, *Investing in the Early Years*,¹²¹ which guided these reforms. There were a number of priorities, which included:

- Providing Access for Children to Preschool – All governments have agreed to ensure that all children have access to a quality early childhood education program in the year before entering school;¹²² and
- Better Childcare and Early Childhood Education – The development and implementation of the new *National Quality Framework for Early Childhood Education and Care*. This new framework replaced the various licensing and accreditation processes that existed previously, increased staff-to-child ratios, provided a national uniform standard in education, health and safety and staffing, and introduced a new rating system for service providers.¹²³

In 2013, the Australian Government requested that the Productivity Commission investigate “future options for childcare and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children's learning and development needs.”¹²⁴ The final report was released in February 2015 and recommended the creation of a single means tested subsidy paid directly to a family's chosen provider and supporting the inclusion of all children including children with disability and children from disadvantaged communities within mainstream services.¹²⁵

¹²¹ Council of Australian Governments 2009, *Investing in the Early Years: A National Early Childhood Development Strategy*, Commonwealth of Australia, Canberra.

¹²² Ibid, p. 5.

¹²³ Ibid, p. 5.

¹²⁴ Productivity Commission 2015, *Childcare and early childhood learning*.

¹²⁵ Ibid, p. 2.

In the 2015 Federal Budget, the Australian Government announced a number of changes to early childhood education.¹²⁶ The Child Care Rebate and Jobs, Education and Training Fee Assistance were combined into a single means-tested single subsidy. The Budget also introduced new payment amounts and working requirements for families to receive the childcare subsidy. Finally, the Government also announced an *Early Childhood Safety Net* to provide targeted assistance to those families and children facing barriers in accessing affordable childcare. This includes *Inclusion Support Program*, to improve capacity and capability of child care services to include children with additional needs, particularly children with disability. DSS recently conducted a consultation regarding the newly introduced reforms, the results of which are yet to be released.

The following are CDA's key concerns in relation to early childhood education:

- Funding. CDA has previously raised concerns regarding the lack of flexibility in Inclusion Support Subsidy (ISS) payments in meeting the individual needs of each child and recommended a more individualised approach to providing additional funding for children with disability;
- Inclusion. Attitudes regarding disability can significantly compromise early childhood education experiences. Further, it is often reported to CDA that appropriate accommodations to meet the needs of children with disability to participate in early education are not met. While the newly introduced *Inclusion Support Program* may provide some support in ensuring early childhood education providers are inclusive, it is critical that programs are administered using a firm evidence base and that robust evaluation and monitoring of outcomes occurs. Further, as with the MSSD program, there is a need to ensure that reform promoting inclusive early childhood education is embedded, rather than a bolt-on program. For further information regarding the importance of inclusive education in early education, CDA recommends the book *Inclusive education in the early years: Right from the start* edited by Kathy Cologon;
- Choice – As in school education, children with disability experience significant challenges in relation to accessing early childhood education and are frequently denied enrolment; and
- Educational outcomes – Early childhood education is vital part of all children's education pathways and plays a key role in preparing children for school. Barriers in access therefore have significant flow on effects and therefore must be considered in broader education outcomes of students with disability.

J. Any other related matters.

SPECIAL SCHOOLS

This section will draw extensively upon CDA's policy paper, 'Special schools and the Australian Government education reform,' (appendix A24). Special schools currently form an important part of the education landscape for students with disability. There are, however, significantly divergent views and expectations amongst CDA members and others about the value of special schools, the quality of provision and their place in the wider education sector vis-à-vis mainstream schools and how the new funding model will affect these schools.

Special schools are segregated settings by definition and there is a legitimate question about whether they can realistically be said to be part of an education system that is fully inclusive. Much depends on the definition and practice within special schools, however the use of the term 'inclusion' in a segregated setting is logically problematic if there is no regular contact and connection with mainstream education programs.

¹²⁶ Department of Social Services 2015, *Child care assistance package*, Commonwealth of Australia, Canberra, viewed 12 August 2015, <https://goo.gl/pRm6hi>.

In any future education reform, it is timely that analysis is undertaken of the role and context of special schools in the wider education system and the fundamental right of all children to an inclusive education.

NDIS AND EDUCATION INTERFACE

The NDIS was introduced following prolonged advocacy and community activism by people with disability, families, carers and advocates. This led to a national recognition that the existing disability service system was highly inadequate. The Productivity Commission Inquiry into Disability Care and Support found that the disability service system “is underfunded, unfair, fragmented, and inefficient, and gives people with a disability little choice and no certainty of access to appropriate supports.”¹²⁷ This led to a fundamental remodelling of the disability services system with the establishment of the NDIS.

The core principles underlying the NDIS are to:

- support the participation and inclusion of people with disability in social and economic life;
- provide certainty around disability services and supports;
- maximise the choice and control of people with disability around supports received; and
- support people with disability to achieve their goals and live independently.¹²⁸

The Scheme commenced in 2013 in a number of trial sites across the country. Because the Scheme represents a complete overhaul of the existing disability service system, it is being implemented in stages. It is anticipated that the Scheme will be fully implemented by 2019.

The interfaces with mainstream sectors are critical to the success of the NDIS, given the Scheme’s defined goal of supporting inclusion and participation of people with disability in all areas of the community. It is imperative that there are clear processes regarding coordination, assessment, entry points and evaluation between these life areas. Traditionally education and disability services have been distinct policy and practice areas. The challenge now is to forge a shared pathway with the mutual goals of ensuring the specific needs and supports of children with disability are better identified and provided.

There are different scenarios to consider with the interface between the two reform programs. These will involve students who are eligible for both education support and state and territory disability programs and not for the NDIS, or vice versa. Because of the current high expectations across the community about what the NDIS could provide, it is expected that pressure will come from families of NDIS participants for NDIS support where there is a perceived or real gap in educational support. The emerging interface agreements between the NDIS and education authorities will need to be comprehensive and highly cognisant of current arrangements. The Productivity Commission identified that funding partnerships are feasible, but requires a rational connection with education support criteria.

In this context, the NDIS will have a role in meeting some of the needs of students. This would typically be centred on the provision of goods and services that would be needed regardless of whether a person was attending school or not (personal attendant care, a hearing aid or a wheelchair).

¹²⁷ Productivity Commission 2011, *Disability care and support: Productivity Commission Inquiry report overview and recommendations*, p. 2.

¹²⁸ *National Disability Insurance Scheme Act 2013 (Cth)*, s.2.3.

Collaboration between the NDIS and education departments should be based on agreed frameworks and boundaries. It would be odd if children receiving supports through the NDIS were subject to vastly different criteria for school-based supports.

This streamlining of criteria across multiple systems is a live issue for the education sector. How the NDIS deals with the multiple systems and support programs across jurisdictions will be of great interest and concern. The Productivity Commission has stated clearly that the NDIS should not fund supports that are the responsibility of mainstream programs, however where mainstream programs do not have capacity for disability support, there will be argument at the margin about the funding supports for NDIS participants.

The progress of the work on the overall school funding model in Australia and the disability loading is critically important to shape this program alignment with the NDIS. Until the disability loading and its relationship to core school funding is finalised, there will still be significant jurisdictional disparity in the definition of disability and funding methodology. Going into the trial sites with this variation in approaches across education systems is going to be a challenge, particularly for the evaluation of the NDIS, which will have to be sufficiently sensitive and well-resourced to identify and analyse the substantive differences across trial sites.

There has been significant interest in the NDIS from education systems, particularly in regard to services that may be able to be co-funded or fully funded by the NDIS. These will be propositions that will be tested in the trial sites and in negotiations between systems and the NDIS at the policy level.

Matching the timing and the common interests of the education reforms for students with disability with the NDIS development is a key challenge. The Australian Government Department of Education's continued involvement with the NDIA and its sensitivity to the interface issues will stand to provide leadership for these more detailed negotiations. This leadership is critical for good outcomes for students with disability in a fluid policy environment.

Cost allocations, funding responsibility and new funding possibilities are driving much interest in the NDIS from the education sector. While this is important in looking at how the growing demand for education support for students with disability can be managed in the future, there are other practical dilemmas around definitions, cross program coordination, resource use, school capacity and transition management that are also needing resolution through this process.

These interface issues are critical issues for consideration in the present education reform agenda. At its heart however is the alignment of values across the NDIS and education reform. Aiming to improve life opportunities, social and economic participation and removal of societal barriers must be consistent across both programs. For too long the values underpinning disability programs in education have been underpinned by 'looking after' students rather than being a means to the end of achieving the best possible educational outcomes.

Recommendation 40: The National Disability Insurance Agency and the Australian Government Department of Education and Training continue to work collaborative to define the complex interface issues, which exist between the parallel reforms.

Recommendation 41: Ongoing consultation occurs with CDA regarding the direct experiences of students with disability in education and the impact on this crucial interface issue.

Conclusion

Education reform for students with disability is urgently needed. Something must be injected to create a new frame of reference for this reform beyond the laboured bureaucratic approach currently underway. The typical poor education experience of students with disability due to the breadth of discrimination and inadequate resourcing is a national shame which to date has not been publically acknowledged.

The direct experiences of students with disability clearly demonstrate that reform cannot be restricted to bolt-on programs or short-term initiatives. The ultimate reform that occurs therefore needs to be system wide and embedded so it can affect meaningful change in the education experiences of students with disability. CDA recommends that a national plan for education reform for students with disability which clearly articulates and drives the urgent and critical reform needed is developed. A clear timeline for reform is also needed to ensure there is no further slippage in this much needed reform. There is an urgent and critical need for education reform for students with disability.

This submission concludes with a young person's views on education and the need for reform:

Disability is a different ability. School would be a much better place for kids with disability if everyone thought about their attitude to disability. Disability doesn't mean 'not normal' and it does not mean less ability. It's just a different ability. We are all different so it shouldn't be such a big deal. So, I just wanted to take this opportunity to try and encourage everyone to think about disability and to recognise disability as being an important and enriching part of the community. In your school, in your workplace, in your home - think before you act. Think before you talk. Don't bully or disrespect someone with disability. Look at things from another perspective. Celebrate everyone in your community. It will enrich us all. Schools are a great place to start.

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