

Submission to the Special Rapporteur on the Rights of Persons with Disability

Abuse of Students with Disability in Australian Schools

**Children and Young People with Disability Australia
July 2016**

INTRODUCTION

1. This submission accompanies a representation made to the *Special Rapporteur on the Rights of Persons with Disability* on 18 July 2016 by a group of Australian advocacy organisations and individuals.
2. It details the significant concerns Children and Young People with Disability Australia (CYDA) has regarding the frequent experiences of neglect, assault, restraint, detainment, seclusion or other forms of torture, cruel or degrading treatment of children and young people with disability in Australian education settings.

CHILDREN AND YOUNG PEOPLE WITH DISABILITY AUSTRALIA

3. CYDA is the national representative organisation for children and young people with disability, aged 0 to 25 years. The organisation is primarily funded through the Australian Government Department of Social Services and has a national membership of 5500.
4. CYDA 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 faced by children and young people with disability.
5. CYDA'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.

ADVOCACY AND REPRESENTATIONS TO DATE

6. Concerns regarding education have dominated the work of CYDA since its establishment in 2009. A typical education experience for students with disability involves discrimination, limited or no funding for support, inadequately trained staff, a systemic culture of low expectations, exclusion and bullying. CYDA is also receiving a greatly increased number of reports of incidents of restraint and seclusion in education settings.
7. It is the view of CYDA that the rights of students with disability to access a quality, inclusive education and to be protected from neglect, assault, restraint, detainment, seclusion or other forms of torture, cruel or degrading treatment are frequently denied within the present Australian education system.
8. CYDA has undertaken significant work and advocacy over many years to highlight the magnitude, breadth and specific experiences of abuse of children and young people with disability in relation to education. This has included direct representations to all levels of government and other related statutory bodies through meetings, written correspondence, phone calls, submissions, delegations and various community awareness raising events.
9. CYDA has engaged with a broad range of stakeholders including: the Prime Minister, Premiers and First Ministers; Commonwealth, State and Territory Ministers; Members of Parliament; Parliamentary Committees; State and Commonwealth Children's Commissioners; Disability Commissioners; the Australian Human Rights Commission; Ombudsmen, government education departments; non-government education authorities; education unions; parent and education peak bodies; community organisations and other stakeholders.

10. Through this work CYDA has aimed to progress and raise awareness of the rights of children, including the specific rights of children with disability, and how these should be afforded in Australia.
11. Further CYDA has provided strong advocacy and representation of the direct educational experience of students with disability in Australia. Accordingly, CYDA has sought to ensure reform through a policy and practice based responses.
12. CYDA has aimed to strengthen its advocacy regarding the rights of children with disability to an inclusive education through the commissioning of universities to complete issue papers based on key issues arising from the direct experiences of students with disability which are frequently reported to CYDA.
13. Papers commissioned to date of relevance to this representation are: *Enabling and Protecting: Proactive Approaches to Addressing the Abuse and Neglect of Children and Young People with Disability*;¹ *Inclusion in Education: Towards Equality for Students with Disability*;² *Belonging and Connection of School Students with Disability*;³ and *Post School Transition: The Experiences of Students with Disability*.⁴
14. All papers include comprehensive literature reviews, policy analysis, direct experiences of students with disability and recommendations for reform. The papers have had an extensive reach with over 80 000 copies downloaded from CYDA's website in the past two years and have been provided to both Commonwealth and State Governments to further advocate for the need for systemic reform.
15. As yet, however there has been no national policy response, or action to address the range of reported breaches and denials of human rights regarding children and young people with disability in education settings.
16. In addition, CYDA has conducted a strong media campaign to raise community awareness about experiences of neglect, assault, restraint, detainment, seclusion or other forms of torture, cruel or degrading treatment of students with disability. This has included a large range of media articles including front page articles, published opinion pieces, television and radio interviews and letters to editors around incidents of abuse and alleged human rights violations of students with disability in educational settings.
17. CYDA has provided submissions detailing the experiences of abuse of students with disability, including in education settings to the following consultations:
 - Discussion paper regarding the establishment of a National Children's Commissioner in Australia (2011);
 - Australian Human Rights Commission *Inquiry into Access to Justice in the Criminal Justice System for People with Disability* (2013);

¹ Children and Young People with Disability Australia 2012, *Enabling and Protecting: Proactive Approaches to Addressing the Abuse and Neglect of Children and Young People with Disability*, Melbourne, available at <http://www.cda.org.au/enabling-and-protecting>.

² Children and Young People with Disability Australia 2013, *Inclusion in Education: Towards Equality for Students with Disability*, Melbourne, available at <http://www.cda.org.au/inclusion-in-education>.

³ Children and Young People with Disability Australia 2014, *Belonging and Connection of School Students with Disability*, Melbourne, available at <http://www.cda.org.au/belonging-and-connection>.

⁴ Children and Young People with Disability Australia 2015, *Post School Transition: The Experiences of Students with Disability*, Melbourne, available at <http://www.cda.org.au/post-school-transition>.

- United Nations Human Rights Council resolution 22/3 – *The Work and Education of Persons with Disabilities* (2013);
- Australian Law Reform Commission Inquiry into *Equality, Capacity and Disability in Commonwealth Laws* (2014);
- Scoping paper provided to the *Royal Commission into Institutional Responses to Child Sexual Abuse* about experiences of children with disability;
- Committee on the Rights of Persons with Disabilities *Day of General Discussion on the Right to Education for Persons with Disabilities* (2015);
- Victorian Ombudsman *Investigation into Disability Abuse Reporting* (2015);
- Committee on the Rights of the Child *General Comment on the Rights of Adolescents* (2015);
- The *National Framework for Protecting Australia's Children* (2009-2020) - Developing the Third Action Plan (2015);
- National Disability Insurance Scheme – *A Framework for Quality and Safeguarding* consultation (2015);
- Royal Commission into Institutional Responses to Child Sexual Abuse – Issues Paper on *Experiences of Police and Prosecution Responses* (2015);
- Review of the *Disability Standards for Education* (2015);
- Senate Inquiry into *Violence, Abuse and Neglect Against People with Disability in Institutional and Residential Settings* (2015);
- Senate Inquiry into *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* (2015);
- Royal Commission into Institutional Responses to Child Sexual Abuse – Issues Paper on *Child Sexual Abuse in Schools* (2015);
- South Australian Select Committee on *Access to the Education System for Students with Disability* (2015);
- Victorian Inquiry into *Abuse in Disability Services* (2016);
- Royal Commission into Institutional Responses to Child Sexual Abuse Consultation Paper - *Best Practice Principles in Responding to Complaints of Child Sexual Abuse in Institutional Contexts* (2016); and
- Australian Human Rights Commission consultation - *Optional Protocol to the Convention against Torture in the context of Youth Justice Detention Centres* (2016).⁵

18. Despite ongoing and relentless advocacy and awareness raising undertaken by CYDA and others to highlight experiences of neglect, assault, restraint, detainment, seclusion or other forms of torture, cruel or degrading treatment of students with disability, there has been minimal acknowledgement of this issue at the national and state and territory level in Australia.

ABUSE OF STUDENTS WITH DISABILITY IN AUSTRALIA

19. CYDA is frequently informed of students with disability experiencing abuse in education settings, which is perpetrated by both educational staff and peers. This includes blatant examples that are clearly defined as abuse, such as physical assault. However, students with disability also experience incidents that are often not considered abuse because the child involved has a disability. Examples include restraint and seclusion that is justified as 'behaviour management' or students being denied access to food and drink during long bus rides to and from school.

⁵ CYDA's submissions are available at <http://www.cda.org.au/cdasubmissions>.

20. Of concern in that abuse of students with disability is often not recognised or acknowledged. Rather it is common for abuse to be renamed or excused as ‘behaviour management’ or an ‘incident,’ rather than being seen as abuse and responded to as such.
21. There is presently no national data or information regarding experiences of abuse, including restraint and seclusion of students with disability in Australia.
22. In April 2016 CYDA requested information about cases of abuse of students with disability through freedom of information legislation from each state and territory education department.
23. CYDA requested ***Information regarding any complaints, investigations and outcomes regarding incidents of a child protection nature against employees where the alleged victim has been identified as a child with a disability. (CYDA sought) de-identified information regarding any complaints or incidents which occurred from 1 January 2014 to (24 March 2016). Complaints or incidents of a child protection nature would include those involving allegations of violence, abuse, neglect or exploitation (including restrictive practices). (It was requested that) the information include the date the allegation was received, employee type, initial allegation, outcome and action(s) taken as a consequence of the allegation.***
24. Below is a summary of responses received:

State or Territory	Response Received
Australian Capital Territory	The Education Directorate provided information “in relation to complaints against employees that are unable to be resolved at the local level and progressed to the Directorate’s human resources team for resolution.” This information consisted of a spreadsheet containing details of four cases that is significantly redacted, which is attached for the Special Rapporteur’s consideration (see Appendix A).
New South Wales	The Department of Education provided a table containing the date, employee type, initial allegation and action taken regarding each incident. The table contained details 64 incidents and is attached for the Special Rapporteur’s consideration (see Appendix B).
Northern Territory	The Education Department did not provide the information requested on the basis that “no information with the specifications of your application is collected by the Department. While the Department holds information concerning incidents of the nature you describe, the Department’s records do not differentiate children with a disability in those cases.”
Queensland	The Department of Education and Training did not provide the information on the basis that CYDA’s application was non-compliant with the requirements of the <i>Right to Information Act 2009 (Qld)</i> . The Department stated that as “your application is presently framed, it is not possible for the Department to identify the documents that you wish to access.” The Department sought clarification regarding the definition of “incident of a child protection nature” and “student with disability.”
South Australia	The Department of Education and Child Development stated that “finding documents in scope of your request will require manually searching of a large number of records, across various systems and areas, as there is no ‘identifier’ for children with a disability.” CYDA was informed that costs of this work would exceed \$1 000AUD.

Tasmania	The Education Department refused to process CYDA's application on the basis that it would involve "substantial and unreasonable diversion of resources."
Victoria	The Department of Education and Training did not provide the information because they do not "record whether a child has a disability as a specific reporting category" and they do not "have information on all the complaints handled at a school or regional level."
Western Australia	The Department of Education did not provide the information and informed this was because "the information you seek is not recorded or captured in a returnable form."

25. These responses demonstrate that information about abuse of students with disability is not centrally collated and recorded in the majority of Australian states and territories. This illustrates the lack of reporting, oversight and accountability regarding abuse of students with disability.

NATIONAL SNAPSHOT OF EDUCATION EXPERIENCE OF STUDENTS WITH DISABILITY

26. In 2015 and 2016, CYDA conducted a national survey about the education experiences of students with disability to obtain a snapshot of current education experiences nationwide. A summary of key findings is provided below.

27. CYDA 2015 National Education Survey Results:

- 1025 respondents nationally;
- the majority (89%) of respondents were families of students with disability;
- 46% of respondents were from regional and remote areas;
- 4% were from an Aboriginal or Torres Strait Islander background;
- 5% were from a non-English speaking background; and
- 58% of students were primary school aged and 34% were secondary school age; and

28. Key findings in relation to education experiences obtained by the CYDA 2015 national education survey are outlined below.

29. QUESTION: DOES YOUR CHILD ATTEND SCHOOL FULL TIME?

RESPONSE	RESPONSE RATE %
Yes	83
No	17

30. QUESTION: 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

31. QUESTION: IS YOUR CHILD RECEIVING ADDITIONAL SUPPORT AT SCHOOL?

RESPONSE	RESPONSE RATE %
Yes	75
No	25

32. QUESTION: DO YOU THINK THE LEVEL OF SUPPORT YOUR CHILD RECEIVES AT SCHOOL IS ADEQUATE?

RESPONSE	RESPONSE RATE %
Yes	32
No	68

33. QUESTION: 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

34. QUESTION: DOES YOUR CHILD HAVE AN INDIVIDUAL EDUCATION PLAN IN PLACE?

RESPONSE	RESPONSE RATE %
Yes	72
No	28

35. CYDA 2015 National Education Survey Results:

- 1396 survey respondents;
- 85% of respondents were families and 6% were young people with disability;
- 43% were from regional and remote areas;
- 4% of respondents were from an Aboriginal or Torres Strait Islander background;
- 6% were from a non-English speaking background;
- 52% of students were primary school aged and 34% were secondary school age;
- 64% of students were male;
- School types attended included government (67%), non-government (23%) and home schooling or distance education (6%); and
- 75% of students attended mainstream schools.

36. Key findings in relation to education experiences obtained by the CYDA 2016 national education survey are outlined below.

37. QUESTION: HAS THE STUDENT BEEN REFUSED ENROLMENT?

RESPONSE	RESPONSE RATE %
Yes	8
No	92

38. QUESTION: IS THE STUDENT RECEIVING SPECIFIC SUPPORT AT SCHOOL BECAUSE OF A DISABILITY OR LEARNING DIFFERENCE?

RESPONSE	RESPONSE RATE %
Yes	73
No	27

39. QUESTION: DO YOU THINK THE LEVEL OF SUPPORT THE STUDENT RECEIVES AT SCHOOL IS ADEQUATE?

RESPONSE	RESPONSE RATE %
Yes	33
No	67

40. QUESTION: HAS THE STUDENT BEEN EXCLUDED FROM EVENTS OR ACTIVITIES AT SCHOOL?

RESPONSE	RESPONSE RATE %
Yes	34
No	66

41. QUESTION: HAS THE STUDENT EXPERIENCED BULLYING AT SCHOOL?

RESPONSE	RESPONSE RATE %
Yes	52
No	48

42. QUESTION: HAS THE STUDENT EXPERIENCED RESTRAINT AT SCHOOL?

RESPONSE	RESPONSE RATE %
Yes	19
No	81

43. Type of restraint experienced:

- Physical: 38%
- Psychosocial: 8%
- Mechanical: 7%
- Chemical: 2%
- Multiple forms of restraint: 6%
- Not specified: 6%
- Responses provided examples of seclusion, exclusion, or bullying: 33%

44. QUESTION: HAS THE STUDENT EXPERIENCED SECLUSION AT SCHOOL?

RESPONSE	RESPONSE RATE %
Yes	19
No	81

45. QUESTION: DOES THE STUDENT HAVE AN INDIVIDUAL EDUCATION PLAN IN PLACE?

RESPONSE	RESPONSE RATE %
Yes	66
No	34

DIRECT EXPERIENCES OF ABUSE OF STUDENTS WITH DISABILITY

46. The following are direct experiences reported to CYDA through consultations with members and constituents when specific feedback around education experiences have been sought and through CYDA's national surveys. They are divided into categories according to abuse type.

Assault and Physical Abuse

47. *My brother was beaten by his teacher last year... (He) was in the middle of a seizure while he was beaten. He has a very small vocabulary made up of mostly echolalia and was unable to tell us what happened – Sibling.*
48. *On placement in a special school, I saw kids being dragged by their hair and shoved outside – Student teacher.*
49. *(My daughter)...was smacked in kindergarten by her teacher. She was the size of a three year old and forced to sit on the floor at the front of the class, she moved off the 'X' he had drawn on the floor and was smacked. As she was non-verbal, the other children told me about it and all gave evidence... No disciplinary action against the teacher (was) taken – Parent.*
50. *In 2005 my son began in a mainstream, government school...By mid-2006 ongoing, unchecked and unreported bullying and harassment by older students resulted in a head injury. After I lodged a complaint the school decided they were ill equipped to ensure my sons' safety and support his education – Parent.*
51. *(My daughter) got so badly bullied, (she was) stabbed with an earring in year three (but) no-one cared – Parent.*
52. *I received a call at work from the school to come and pick my son up as he had a runny nose. My husband and I were unable to leave work immediately, so my mum collected him from school. Our son was brought out from a room by three teachers, including his own teacher, with a bloodied face. The teachers and receptionist said that he had just had an accident whereby he had sneezed and bit his bottom lip. Mum then drove him home and cleaned up his face. She discovered that it was full of severe scratches, one near the eye, in addition to cuts on his lip. She rang the school for an explanation and was told that his teacher would call back to discuss. His teacher left a message later, but did not return any further calls after my husband and I left messages looking for an explanation... (Later) an incident report was sent home stating that another student had caused the injury – Parent.*

53. *I saw one of the staff wrestling a teenage boy with autism to the ground and screaming profanities at him. I think he bit her, not sure. It was all out of control – Parent.*
54. *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.*
55. *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.*
56. *(My child) has been called retarded and beaten quite frequently – Parent.*
57. *My son repeatedly came home with bruises caused by other students during recess and lunch. The school never gave us any explanation – Parent.*
58. *(My son) has had a student punch and throw him out of his wheelchair for no reason. Food has been thrown at him and called names. He has been ignored and left alone – Parent.*
59. *I was told, second hand, that my child deserved what he got (face being slammed and rubbed into the ground by a larger boy) - because he is generally disruptive – Parent.*

Restraint

60. *The school I went to would (hold) down students for not doing their work. Surely there are better strategies than that – Student.*
61. *(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.*
62. *(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.*
63. *(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.*
64. *My son was tied down with rope to a chair...while in childcare because he wouldn't sit and listen to story time – Parent.*
65. *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. *Our son has been restrained in a chair that is bolted to a large piece of timber continuously throughout his day. He is only removed when taken to the toilet, where once again he is strapped to the toilet, or for outside play. While he is in class he is restrained at all times – Parent.*

67. *An education assistant...smacked a child as well as another incident of physical restraint. Kids at the school are put in restraints on chairs and strapped to the toilets – Family member.*
68. *(A pelican) belt was used for a prolonged period without an occupational therapist or my approval. It was hidden under (my son's) shirt and left on for longer than the suggested time – Parent.*
69. *My son has been physically restrained on a number of occasions, the school is aware this is a trigger for him, they know it escalates his behaviour but still continue to do it – Parent.*
70. *My child has witnessed another child being kept in a restraint thereby appearing to normalise this behaviour. Whether you're in the restraint or looking at someone else who is restrained, (it) has an impact – Parent.*
71. *Three to four adults to (held my son) down. The last method we heard about was telling him to pretend he was a jellyfish therefore going limp and not struggling. This was obviously after he had been restrained and put on the ground – Parent.*
72. *(My son) has had teachers use intimidation and physically drag him down corridors for refusing to follow instructions – Parent.*
73. *Sometimes I see children locked outside of the class room in a penned off area with no adult supervision. There are children in my son's class who they put in restraints on chairs who have little or no speech and no physical disability. I have talked to the child's parents when I see this and they have asked the school not to do this, but sadly they continue to do it every day – Parent.*
74. *(My son was) physically sat on and restrained during a meltdown – Parent.*
75. *I have been told (my daughter) "cannot attend school without taking Ritalin" and also that "she MUST obey whether she likes it or not" or "she will have her enrolment reviewed" – Parent.*
76. *(My child is) often given medicine to restrict movement when teachers can't place him where he needs to be – Parent.*
77. *(My son) was restrained without our permission, dragged and given time out – Parent.*
78. *Staff have never admitted but my son has told me stories of how his classroom teacher dragged him against his will from the classroom to the office. Other teachers have dragged my son from the whiteboard to the chair and stomped on his feet and the Deputy Principal has pulled on his shirt to pull him backwards – Parent.*
79. *(My daughter was) threatened to be sent to Principal's office if she moved a muscle, instead of providing sensory breaks as recommended by the occupational therapist...She was often held down by teachers...Awful – Parent.*
80. *My son was restrained multiple times. He was left with bruising and locked in small rooms – Parent.*
81. *I witnessed my child being physically restrained for too long. The incident left a bruise on his wrist and when I complained to the Department of Human Services and the Education Department, I was told the matter had to be resolved between the school and me! In other words the school had to "self-discipline" itself - What a joke! I was totally disgusted with the way the matter was handled – Parent.*

82. *Many teachers have the best intentions but sadly our child has been restrained in chairs and on the toilet – Parent.*

Seclusion and Detainment

83. *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.*

84. *(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.*

85. *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.*

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

87. *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.*

88. *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.*

89. *(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.*

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

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

92. *After being dragged by staff (my son) was put in a fenced-in outdoor area by himself in the middle of winter without a jumper. The staff even closed the blinds so he couldn't see into the room. He was terrified and banging on the door begging to be let back in as witnessed by another parent. The school didn't notify me about the physical restraint nor the locking him outside alone. I was told by another parent – Parent.*

93. *My child would spend most of the time he was permitted to attend school (which was under two hours) in a room with his aide with no windows. I would like to see any adult be subjected to those conditions and see if they cope – Parent.*

94. *My son has been sprayed with water to 'stop' a behaviour. He had his face held by an aide to teach him to look him in the eye. He was locked in a room alone with a ceiling fan going for most of the day, when I collected him he was on the floor asleep in his own vomit – Parent.*

95. *(My child was) placed in a small glassed office area in the corner of the classroom. He could not hear the class activity but could view (it). When I complained, the teacher placed paper on the glass to restrict his view – Parent.*
96. *At the school that my son used to attend, he and two other children aged five to six years old were locked inside a small windowless room called the 'thinking room.' My son now has a fear of small confined spaces such as lifts...I was not informed before or afterwards by his teacher or school Principal of this event. It is only years later that my son remembers and has had the courage to tell me – Parent.*
97. *My son attended a special school for six months when he was in Prep... Big mistake. He was put in a caged area outdoors to protect him from an aggressive student in his class, (this was) very upsetting for us and him...We quickly removed him from that school – Parent.*
98. *My son was grabbed by two teachers/aides, one on each arm. They dragged him backwards with his legs dragging across the floor. They put him outside in a fenced in area and left him there by himself. My son is not violent and could have easily been led away by taking his hand if he got upset – Parent.*
99. *Although my son has a speech delay he was able to tell us that he didn't want to go back to school because he didn't want to be locked in the storeroom anymore. The school claims that it never happened – Parent.*
100. *During mainstream schooling my son was locked in an office with the Principal. During a support class placement, my son reported being regularly physically abused – Parent.*
101. *(My son) was forced against his will into the dark and sometimes physically injured in the process. For long periods of time. If he wasn't suspended he was in that room screaming and bashing his head. All the time in the dark unsupervised, as documented by the school. We have received no support, no apology, no remorse – Parent.*
102. *(Seclusion) happens to my child and many others at the school. It can be a small room or (being locked) outside...until the staff member lets them. This can be in summer when it's hot or winter when it's cold. Most days myself and my husband saw this – Parent.*
103. *In May 2013 I discovered, from limited clues my son gave me, that he had been held in a "time out room" on many occasions throughout the beginning of that year. Due to his poor expressive language he had not been able to tell me what had been happening. As a family we were totally devastated when we discovered what had been happening. The school acted well outside of Departmental guidelines...we were NEVER informed when such methods were used, despite written requests demanding to know the full circumstances – Parent.*
104. *(My child has been secluded) many times. Class rooms have a little ante room of sorts for escalated time out. There is also another larger room for the same purpose, situated in the main office area. (My son) spent many hours in these rooms in the past – Parent.*
105. *(My child) was not allowed in playground to socialise with other kids at all, no excursions and could do nothing outside classroom work – Parent.*
106. *I have to sit in the photocopy room before school so the boys who hurt me don't come near me. I always have to stay in the courtyard at lunch and play times. I'm never allowed on the oval or the rest of the playground – Student, aged 18 years.*

107. *When (my daughter) was distressed she was put in a room by herself without supervision until she was picked up – Parent.*
108. *The "reflection room" is used consistently when a student displays "unsavoury behaviour." It's a room near the Principal's office with a security camera to monitor the child, (who is) unable to leave without permission – Parent.*
109. *(The) child is placed in an area that is claimed to be a retreat, but is a gated and child cannot exit if they choose to. Teachers need to enter through two locked gates to reach the child. Food, drink and activities (are) passed through bars – Disability support worker.*
110. *(My daughter was) placed in a dark, small room in the previous year on two occasions for being aggressive. I was not told this occurred - my daughter told me. She was in the room alone – Parent.*
111. *At a previous school my son was encouraged to spend time in the "breezeway" to calm down, a concrete undercover area, outside his classroom. He does not have the verbal ability to request leaving such an area and I saw no evidence of an alternative communication method that he could use to communicate this – Parent.*
112. *Repeatedly (my son) was placed in offices or close like places – Parent.*
113. *(My child has been placed in) a room without windows with the doors were locked - when one door was left open into the teacher staff room he escaped. Has been "pushed" to the extreme point - he ran out of the school across two major roads - one of which was four lanes wide – Parent.*

Bullying

114. *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.*
115. *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 – Same student as above, aged 14 years.*
116. *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.*
117. *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.*
118. *(My son) has broken an ankle through bullying, has been beaten up on the way home from school and is not under the care of a psychiatrist and psychologist – Parent.*

119. *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.*
120. *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.*
121. *(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.*
122. *(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.*
123. *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.*
124. *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.*
125. *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.*
126. *(My daughter) has been bullied verbally, physically (causing injuries which required medical attention), sexually (requiring psychological treatment) – Parent.*
127. *My son has experienced bullying since kinder to the extent that he was physically assaulted in Year Six, as a result he was diagnosed with generalised anxiety – Parent.*
128. *(My son) has been assaulted on more than one occasion over the years by other students and this has been played down...He received a severe knock to the head and was hospitalised with delayed concussion and a migraine, though the staff say it didn't occur – Parent.*
129. *(My daughter) was beaten up in the playground, with six large bruises appearing on the small of her back. I spoke with the principal who said it was a 'game of tiggy gone wrong'. She couldn't find an adult in the playground and had to hide from the other children...The principal completely and repeatedly denied that the playground had been left unsupervised – Parent.*
130. *(My child has been) dragged on the ground, been shown a knife and called a retard and an idiot – Parent.*

131. *Boys have told (my daughter) they will rape her, she has been bullied many times by children of different ages – Parent.*
132. *(My son) was bullied verbally, physically and emotionally for an entire year by the same child. This child constantly said he would slit my son's throat. He even attacked him whilst he was with a teacher. All that the school or Education Queensland would do is offer an aide for short term – Parent.*
133. *My son experiences bullying on a daily basis. He has been threatened to be killed, stabbed and has been chased by a group of students (after which) I found him hiding in a cupboard when I got home from work – Parent.*
134. *In my daughter's first year at special school, she was hit, punched, pushed spat at and kicked by a student on separate occasions. Last year a new student to the school threatened to kill her and went into detail as to how he would do it. This year a different student has punched her in the stomach – Parent.*
135. *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.*

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

136. *Over a number of months, our son's lunchbox would come home virtually untouched. His teacher had told me in a program support meeting that she won't let him eat his food unless he goes and gets his lunchbox as per the other students. He has a complex disability and obviously finds this hard to do. She would often write me an email at the end of the day saying that he was unwell and didn't eat his food. However, when he comes home, he gulps his food and drink down. Being given food and drink during the day is a fundamental right and I believe this teachers attitude is severely flawed – Parent.*
137. *Our son has come home on numerous occasions during the winter months in cold, wet shoes and saturated clothing. When asked for an explanation, his teacher has said that it was impossible to keep him away from wet areas in the playground despite wearing a bright vest. I have asked the principal and teacher to find a way to keep him safe and dry but the situation remained unchanged – Parent.*
138. *In most Australian jurisdictions, bus transport to special schools is funded by the government. 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.*
139. *CYDA 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.*
140. *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.*
141. *These trips frequently involve children being subjected to breaches of human rights, including treatment that could easily be defined as torture. Examples include restraint during bus trips or being denied food, drink and toilet trips. Below are experiences reported to CYDA.*
142. *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.*

143. *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.*

144. *The many attributes associated with longer travel time (for my son to and from school) 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.*

145. *(My son's) Year one teacher would not allow him to go to the toilet when needed even though she had been told many times it could cause him to rupture his bowel or bladder if he is made to hold on - Parent.*

146. *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.*

Sexual Abuse and Harassment

147. *(My daughters was) sexually harassed by students and teachers – Parent.*

148. *My daughter attended a social program, (where) she was shown and directed to massage violent male students... This was excused away in the complaints process, no one questioned this or supported my daughter's need for specialist counselling. She was manhandled by up to four adults, including males. She learnt about fear, failure, humiliation, isolation, violence, abuse – the list goes on – Parent.*

149. *My 7 year old son experienced peer to peer sexual assault at school. I was informed (the sexual assault counselling service) don't have the capacity to see children with disability – Parent.*
150. *(My son) has been called a "retard," another child has assaulted him by forcing his fingers up his backside – Parent.*

CONCLUSION

151. Despite being a signatory to numerous international human rights instruments, notably the *Convention on the Rights of the Child* and the *Convention on the Rights of Persons with Disabilities*, it is the view of CYDA that children and young people with disability continue to experience significant human rights violations in education settings in Australia. The shameful direct experiences reported to CYDA demonstrates that denial of rights is a typical experience for students with disability.
152. Despite these issues being frequently raised with Commonwealth, state and territory governments and other relevant authorities, there has been no meaningful response to ensure children and young people with disability are afforded their human rights in education settings in Australia. Accordingly there is limited action occurring to safeguard and prevent the abuse of students with disability in Australian schools.
153. CYDA and a range of other disability advocates are therefore seeking assistance from the Special Rapporteur to work with Australian governments to ensure students with disability are afforded their rights and are protected from abuse in educational settings in Australia.
154. CYDA would welcome the opportunity to provide further information if required.

CONTACT

Stephanie Gotlib, Chief Executive Officer
20 Derby Street, Collingwood VIC 3066
Phone 03 9417 1025
stephanieg@cda.org.au
www.cda.org.au