



Public submission made to the Review to Achieve Educational Excellence in Australian Schools

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Submitting as a: Parent/carer/guardian
State: WA

Summary

Inclusive education is a fundamental human right of all children with disability, and indeed, all children.

The right to inclusive education has been recognised in many international human rights instruments, including Article 24 of the UN Convention on the Rights of Persons with Disabilities (CRPD) (as clarified by General Comment No. 4) and is also the subject of Sustainable Development Goal 4” to “Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all”.

Inclusive education is also evidence-based best practice in delivering education to students with disability, and indeed all students.

I expect that many experts and organisations will present detailed submission on the above matters. As such, my contribution as a parent of a child with disability will be to ask the Panel to understand the dynamics of parental "choice" in the context of education of students with disability and how this too can present as a barrier to education of students with disability to education.

In my view, no government should be able to sleep peacefully on the basis that investment in a “dual system” of education, comprising separate segregated settings for students with disability, whether in “special” schools, co-located education support units or separate classrooms in general education schools, is justified because some parents may "choose" segregated educational settings, notwithstanding the human rights case and best evidence education of students with disability.

I hope that the Panel takes the opportunity to consider these matters and ensure that its recommendations contribute towards ensuring that our education system is one that is universally accessible, welcoming and inclusive of all Australian children, including children with disability.

Main submission

I am a mother of three children (including a school-aged child with Down syndrome), a lawyer, a director of Down Syndrome Australia and the Attitude Foundation, the Founder of Starting With Julius and a co-Founder of All Means All – The Australian Alliance for Inclusive Education.

I am also the co-author of the Starting with Julius' Tips for Teachers (Inclusive Education) Series, Co-author of SIPN's 'Schools for All Guide,' a free comprehensive Australian inclusive education online resource for parents as well the All Means All Educators Toolkit and Parents Toolkit.

I am a current Finalist in the National Disability Awards 2017 and was a Finalist in the Western Australian of the Year Awards 2017 and in the Australian Human Rights Awards 2016.

I work to promote widespread recognition of the right to inclusive education as a fundamental human right of all children and the evidence-based benefits of students with disability being educated in regular classrooms together with their same-age peers.

I was honoured to speak about my work at the United Nations in Geneva in March 2017 and at the United Nations in New York in October 2017 about my work.

However, I would like to make this submission in my personal capacity as a parent, a citizen and an advocate.

I would also like to commend the Australian Government for establishing this review and hope this submission will assist the Panel in its work.

Inclusive education is a fundamental human right

Inclusive education is a right of all children with disability, and indeed, all children, have a right to receive an inclusive education, and Australia has a corresponding obligation to ensure an inclusive education system. This is because the delivery of a quality inclusive education to students with disability on the basis of equal opportunity and non-discrimination, is the modality by which they are able to realise the universal human right to education, as recognised by various international human rights treaties and conventions.

Australia has express obligations under Article 24 of the CRPD as clarified by General Comment No.4, to ensure "an inclusive education system at all levels".

I would like to quote the European Commissioner for Human Rights in his recent report on inclusive education and the importance of Article 24 of the CRPD:

"One of the main obstacles to school desegregation is the lack of awareness in society about the importance of inclusive education for social cohesion. Therefore, launching campaigns to raise awareness of the dangers of school segregation, and at

the same time to stress the multiple benefits of inclusive education on aspects such as educational performance, reduction of school dropout, labour market integration and social cohesion, can have a positive impact on the attitudes and expectations of society as a whole. ...

Furthermore, inclusive education requires a mentality shift at a societal level, from seeing certain children as a problem to identifying existing needs and improving the education systems themselves. It is crucial that society at large, decision-makers and all the actors involved in the field of education fully understand the need for this paradigm shift.” [pp 21-22]

I would like to submit that this human rights framework – which has informed some law and policy across the Australian education landscape - must be foremost in the Panel's consideration of the issue presently before it.

What is inclusive education?

In addition to being a human right, inclusive education is a practice for delivering education services to all students, including students with disability, and it is underpinned by an acknowledgment of the diversity of learners and considerations of accessibility, equity and belonging for all.

The practice of inclusive education refers to the delivery of education to all students in a shared general or mainstream education classroom environment where diverse learners are welcomed and supported to fully participate as equal members of that class, learning the general class curriculum (modified to support access as appropriate).

Inclusive education is not the segregation of students with disability into “special schools” or “special” units within general schools (i.e. classrooms for students with disability co-located within regular schools). But nor is it the mere physical placement of students with disability in general education classrooms without adequate supports or adaptations, so that they are unable to meaningfully access the physical, learning or social environments and are therefore excluded from participating and belonging.

Further, inclusive education is not physical placement in a general classroom for the purpose of receiving a separate education, often delivered by a teaching assistant rather than the classroom teacher and sometimes involving a completely separate curriculum.

These matters were clarified by the Committee on the Rights of Persons with Disabilities when it issued, in 2016, its General Comment No.4 as guidance about the meaning and scope of inclusive education in Article 24 of the CRPD which has been ratified by Australia for nearly a decade and which, to some extent, is sought to be implemented domestically through the Disability Discrimination Act 1992 and the

Disability Standards for Education 2005. I would like to invite each member of the Panel to read Article 24

(<http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>)

together with General Comment No.4

(<http://www.ohchr.org/Documents/HRBodies/CRPD/GC/RighttoEducation/CRPD-C-GC-4.doc>)

Evidence-based research supports inclusive education for all students

As an educational practice, over 40 years of research in Australia and internationally has overwhelmingly established that inclusive education produces better academic and socio-emotional outcomes for students with disability and for other students as well.

For example, this was the conclusion reached by several significant reviews of the literature (eg Jackson, R. (2008), Inclusion or segregation for children with an intellectual impairment: what does the research say? at

http://www.qppd.org/images/docs/jackson_literature_review.pdf; Cologon, K. (2013), Inclusion in education. Towards equality for students with disability. Clifton Hill, Vic 3068: Children with Disability Australia) and notably last year's comprehensive report "A summary of the Evidence in Inclusive Education" (2016), by Dr. Thomas Hehir, Silvana and Christopher Pascucci Professor of Practice in Learning Differences at the Harvard Graduate School of Education and Abt Associates.

I invite the Panel to consider the comparative evidence basis for segregated education and for inclusive education and to base its recommendations on the outcome of that process. I believe that children with disability, and like all children, deserve evidence based approaches to education.

To look at Australian evidence-based practice of inclusive education, I would recommend the Panel consider the example of Thuringowa State High School in North Queensland (www.thuringowashs.eq.edu.au) which has achieved a successful transition from a model that segregated students with disability to a model that is fully inclusive of and embraces the diversity of all students, with higher academic achievement, outcomes and engagement of all students. For international models, the US government funded SWIFT Schools programs is also worth considering (www.swiftschools.org).

Parental "choice" in the "dual" system of education – more like parental concession

While our family has been fortunate to find a local public school that welcomed our son and with whom we have been able to develop a collaborative relationship to support his inclusion at a social and academic level, this was after several experiences of being effectively "discouraged" from attending other schools by their

administrators. In this regard, would like to note research published this year that suggests the high incidence of "gatekeeping" and restrictive practices that are currently experienced by students with disability and families, with 71% of over 700 survey respondents across Australia reporting these experiences.

From our personal experience and engagement with many other families of children with disability, including through my role as an advocate as well as my involvement in disability sector organisations, it is clear that there is systemic deficiency in access to, and the delivery of, genuinely inclusive education in Australia.

Sadly, a very considerable proportion of Australian children with disability, and in particular intellectual disability, continue to be educated in segregated "special" school or "special" unit settings and of those that get to attend mainstream schools, many routinely experience poor practices, exclusion and discrimination. It is particularly disturbing to note that Australia, against international trends and arguably in contravention of its international law obligations, is actually experiencing a growth of "special" segregated education, with Australian Bureau of Statistics figures showing a growth of 17% in "special" schools in Australia between 1999 to 2013 while the number of schools overall only increased by 3% during the same period. Even today, a new \$26 million special school has been announced for Cairns and only yesterday, ACT announced an expansion of places in segregated education support units.

While a range of factors will have contributed to this worrying trend, I would like the Panel to have some depth of understanding of the dynamics of "parental choice" of educational setting in this context as a relevant barrier to students with disability accessing inclusive education.

As a parent and an advocate, I am keenly aware that this is a topic that often polarises the community of parents of children with disability, and indeed, the wider community. Rarely however does it polarise the disabled community, who continue to fight for rights and inclusion in every area of life and whose fundamental human right it is to access an inclusive education.

It is also a topic where, frequently, judgments are clouded by cultural beliefs, pre-conceived stereotypes and subconscious bias in the decision-makers themselves, the absence of quality information and advice, and where self-justification can sometimes compromise the capacity to reflect and re-evaluate.

As a parent, I believe that I am the best person to make educational choices for all my children and, as a society, we recognise that it is parents who should determine, in the first instance, what is in their child's best interests. When it comes to educational decisions about their child, most parents recognise these types of decisions as critical to their child's best interests; and want to exercise choice to give their child the best chance of success in life.

When a child has a disability, the decisions that parents make are in some ways even more significant for the long-term outcomes of their child.

The Australian Government, many teacher and principal association, some disability associations and disability service providers present the decision of the learning environment for a child with disability as one of “parental choice” – a choice between “equally good” options for the parents to make in light of the circumstances of their child. By providing a range of educational environment options, they say that the parents can make the choice that is best for their child. Like shoes, “one size doesn’t fit all” – the mantra of the “parental choice” view.

The choice is presented as a natural compromise or trade-off between a sliding-scale of “specialist support” for the child – the more segregated the environment, the more specialist supports available (i.e. smaller classes with higher specialist staff-student ratios) – but with a corresponding reduction in social and academic contact with same-age non-disabled student peers. The message, consistent with societal expectations founded in a long-history of excluding, institutionalising and segregating people with disability, is that children who require more significant supports need more “specialist” attention in more “specialised” environments and that is more important – and more beneficial – than social and academic learning with same-age regular peers in a regular school environment. However, the research evidence doesn’t support this view.

Choosing a segregated specialist classroom is not like choosing a private school over a public school, or a catholic school over a non-denominational school. With over 40 years of research evidence overwhelmingly in favour of educating disabled students in the same classrooms as their non-disabled peers and demonstrating unequivocally superior long-term academic, social and economic outcomes, we know that the decision to segregate is a decision that goes to the quality of the education – and therefore it goes to equality of educational opportunity and provision – and therefore to discrimination against segregated children with disability as a group.

They are not things that are sacrificed in choosing between the usual “philosophies” and preferences in education options (public v private, denominational etc.) – they are things sacrificed in choosing segregation, a mode of delivering education to students with disability, against the objective research evidence.

Inclusive education is the optimal and most direct pathway to living, working and fully participating in the community, whilst expanding diversity and reciprocal acceptance of diversity at each stage – in classrooms, workplaces and society itself.

The “special” path, lined by a well-meaning culture of low expectations and outcomes, is too often a sugar-coated path to social and economic marginalisation

and exclusion – and serves to further entrench outdated societal attitudes to disability.

I would like to also note in this context, that inclusive education is a human right of people with disability, not their parents, as recently affirmed by in General Comment No.4, describing inclusive education as:

“A fundamental human right of all learners. Notably, education is the right of the individual learner, and not, in the case of children, the right of a parent or caregiver. Parental responsibilities in this regard are subordinate to the rights of the child.”

“Parental choice” in the context of considering segregated schooling options should be seen for what it is – a decision to concede, to segregation, the right of the child to an inclusive education, just as parents once conceded the rights of their girl children to have an education at all or a quality education on an equal basis with boys as opposed to being taught "life skills" in favour of academic instruction. Nowadays, we see the denial of education to girl children for what it is – educational discrimination.

Why do parents concede their child's right to an inclusive education? There are many reasons for this and in many cases parents are in fact responding to pragmatic limitations and deficiencies of the regular education system. The fact is, many children with disability and their families have very poor experiences in regular settings for a range of reasons – from “gatekeeping” by schools that don’t welcome and support their child, to poor practices, safety concerns, inadequate responses to bullying and social vulnerabilities, to school cultures that are not inclusive of students with disability and their families. Ironically, these failures are sometimes attributed to “inclusive education” itself – in reality they are due to a lack of inclusiveness, not because if it.

While every parent would like to make choices in their child’s best interest, when it comes to education of children with disability, the range of options that some families are provided with are so poor that parents are effectively forced to make a “least worst” choice – between a low outcomes segregated setting (i.e. a special school or education support unit) that welcomes them and their child or a regular setting that fails to welcome and accommodate their child.

In most cases, parents accept segregation of their child because the regular education system did not, would not or was not expected to provide the appropriate supports and adjustments – which under Article 24 it is obliged to do.

I don’t see “parental choice” in this context as a free choice between “equal options” made on a fully-informed basis. I see “parental choice” as Hobson’s choice for many

parents – it is an exercise in “parental concession” – parents conceding the rights of their child to an inclusive education to an education system unwilling or unable to transform itself into a system that is accessible to all children and which accommodates their diverse functional needs – indeed a system that should assume and accommodate the diverse needs of all children, whether or not they have a disability.

Segregation is the price many parents are transacting, and that their children with disability are paying, for an education system that excluded children with disability since its very beginnings and that continues to resist their inclusion today.

This systemic leakage of students to segregated settings as a result of these factors – politically dressed as driven by “parental choice” – serves to preserve the status quo, namely the parallel segregated “special” system alongside a general education system that provides only limited and conditional access to students with disability.

The flow of students to segregated settings is not evidence of parental support for segregation of their children. It is the symptom of how far the regular education system has to go in order for it to be a genuinely inclusive system.

Concluding thoughts

As a parent and citizen, I am deeply concerned about the state of education for Australian students with disability in particular and ask the Panel to reflect on the following question:

“Why are we continuing to deliver education to children with disability:

(1) using out-dated models informed by the historically entrenched practice of segregating people with disability which are not evidence-based and which have been consistently established by extensive research over decades as producing inferior outcomes?; and

(2) that amounts to a violation of their fundamental human rights?”

Particularly in an affluent developed country, we should not accept an education system that does not adequately address the above questions. In this regard, I ask the Panel to consider current law, policy and practice across the education landscape to identify how such laws, policy and practice are failing to address, and may be even entrenching, systemic barriers to access by students with disability to the general education system.

Specifically, I ask the Panel to consider the need for a nationally coherent and consistent pathway or model to implement evidence based inclusive education across the Australian education system as a basic right of every child, and the transition it out of the current "general/"special" dual or parallel education system into a single unified education system delivering, as standard, quality inclusive

education to all students, underpinned by equitable access, respect for rights and evidence-based “best practice”. In light of the matters outlined in this submission, I consider that government investment in furthering segregated models for delivering education to students with disability is in breach of the CRPD and in direct contradiction of the commitment to evidence based practices that underpins the work of this Panel.

Catia Malaquias, 2 November 2017