



SUBMISSION TO THE STRENGTHENING INCLUSIVE EDUCATION IN ACT PUBLIC SCHOOLS CONSULTATION

June 2022

ROLE OF THE CHILDREN AND YOUNG PEOPLE COMMISSIONER (CYPC)

The Children and Young People Commissioner (CYPC) is one of eight independent statutory roles that together make up the ACT Human Rights Commission. Together these roles promote the human rights and welfare of all people living in the ACT and have legislative responsibility for protecting some of Canberra's most vulnerable citizens.

The role of CYPC includes:

- promoting the rights of children and young people,
- consulting and talking with children and young people and promoting their participation in decision-making,
- ensuring that stakeholders listen to and seriously consider the views of children and young people, and
- providing advice to government and community agencies about how to improve services for children and young people.

The CYPC is also the ACT Public Advocate.

INTRODUCTION

In article 29 of the United Nations Convention on the Rights of the Child, children and young people's right to an education that holistically develops their talents and abilities in an environment that encourages their social and cultural connections is affirmed. The ACT Government's recognition that academic, social and wellbeing outcomes for all students is improved through inclusive education is certainly in line with the spirit of article 29 and section 27A of the *ACT Human Rights Act 2004*, notably sections (1) and (3)(a).

ACT Education is obligated to provide inclusive education under the reasonable adjustment expectations of the *Discrimination Act 1991* (ACT), as outlined in section 4(d)(iii). Further, as a Public Authority, ACT Education has a positive obligation to implement section 27A of the *Human Rights Act 2004*, which states that "every child has the right to have access to free, school education **appropriate to his or her needs**" (my emphasis).

The practical implementation of the Directorate's commitment and its obligations are complex, so I welcome the Education Directorate's consultation process to achieve an Inclusive Education Strategy.

There is a wide range of perspectives in the ACT community regarding what inclusion should look like, which I believe have been well articulated already in a range of forums over many years. This submission does not reiterate established viewpoints and evidence, but instead aims to highlight some of the issues regarding inclusive education that have received less attention to date and that continue to be brought to my attention by families, namely:

1. The high threshold for students to receive support and reasonable adjustment
2. The complexity of engagement between schools, families, and services
3. The role of school culture and leadership, which results in significant variation in inclusion practices between schools
4. School refusal and other school attendance problems
5. Practical implementation of the strategy.

Before further discussion, it is important to note, that the term inclusion is broad in its application. Students with disabilities also have a range of other attributes that may be significant to their identity – some are Aboriginal and Torres Strait Islander, culturally or linguistically diverse, or identify as LGBTQIA+, for example. Inclusion must acknowledge the layers of identity children and young people have and address all forms of exclusion and discrimination. A commitment to cultural safety, affirming practices for LGBTQIA+ students, and the importance of student voice must be embedded in all strategies and practices of education in the ACT, including in those for students who also have disabilities.

THE HIGH THRESHOLD FOR STUDENTS TO RECEIVE SUPPORT AND REASONABLE ADJUSTMENT

Through my work with children, young people, and their families it is clear there is a disconnect between medical diagnoses of the severity of disabilities and the thresholds required to obtain additional learning support in schools. In January 2022, I raised this issue with the Education Directorate, but reiterate it here so as not to lose sight of what I believe is an ongoing issue.

Families have raised concerns that the threshold for obtaining additional support within ACT public schools is higher than that for their original diagnoses. Examples include: the needs of students with vision and hearing impairment being assessed on the ‘better’ eye or ear only, rather than overall functional impairment; the high impairment threshold level for children with autism to receive additional support; and the adversarial nature of Student-Centred Appraisal of Need (SCAN) meetings. This results in inequitable outcomes, with those able to ‘navigate’ the process most successfully receiving higher levels of support, regardless of the level of student need.

Children and families are required to go through multiple assessment processes that do not link to each other to get support for their children in and outside school. This leads to significant delays between identifying that a child requires focused support and the child being provided with that support, and the higher thresholds applied by Education can result in a student not receiving additional resources or support at all.

There is also significant confusion for families in understanding how the support needs of their children are assessed, how funding is allocated to schools or their children specifically, and what support this funding may practically result in.

I am aware that there is significant demand on additional support services within schools and note in the background paper that “the ACT is seeing a growth in enrolments of students with disability at greater rates than growth in total enrolments”¹. Although additional support staff were budgeted for in the 2019-20 budget², the increasing demand, coupled with the high thresholds required to obtain support, results in children who are not classified at the highest level of need being left without funding and services within their school. This can result in students disengaging from their learning and displaying complex and challenging behaviour due to frustration, anxiety, and the lack of reasonable adjustment.

Presently, where a student does not meet the minimum threshold for additional support, Individual Learning Plans (ILPs) are an option. However, although ILPs are seen as a way of meeting individual student needs, they have limited utility if educators are not supported and resourced appropriately to implement them.

ENGAGEMENT BETWEEN SCHOOLS, FAMILIES, AND SERVICES

While I acknowledge that a good partnership between schools, families and community services is an ideal way to support students with disabilities, I have concerns about how this works in practice.

Families and carers who are raising students with disabilities are often engaged with multiple services, many of which do not connect. These range from allied health to community support agencies and ACT government services. This requires parents and carers to be able to navigate multiple systems and effectively advocate for their child in each one. There are significant cultural, language, educational and financial barriers for some families to be able to do this, creating an inequalitarian system.

¹ Education Directorate, *Inclusive Education for Children and Young People with Disability in ACT Public Schools*. 2021:5

² [Building for Canberra’s future by investing in education - Budget 2019-20 \(act.gov.au\)](https://www.act.gov.au/budget/2019-20)

The role of community agencies is clearly articulated by the Directorate, with the expectation that schools and community organisations can work together to support students and families. However, practically, there is a lack of funding for community services to meet increasing referrals, and many are at capacity. There are also considerable differences between schools in how well they engage community services, with some working well with multiple services, and others rarely engaging, if at all. Further, it is well known that the 8–12-year-old age group lacks dedicated services, as do children who are not classified as being of highest need.

The ability of the Education Directorate to achieve a partnership approach under the Inclusive Education Strategy will be inherently limited without an injection of funding to increase capacity in the community sector, as well as in systems and processes that support schools to collaborate. In addition to the need for designated funding to community organisations so they can fulfil their envisaged role in supporting students, I also respectfully suggest the Directorate ensures all schools have sufficient staff resources for community and social work. Specialist staff to support families to link to services, effectively navigate the various services, and manage the partnerships is invaluable. I am aware of several existing community liaison staff within schools who are beyond capacity and unable to work with all the families in the school community who need support and service linkages.

SCHOOL CULTURE AND LEADERSHIP

There are schools in the ACT that are supporting students with disabilities incredibly well. These schools' names are shared among families, and I know anecdotally that some families are even moving house to locate themselves in the intake zones of those schools with these reputations. This is clearly a significant upheaval and a decision not taken lightly. That families in the ACT move house to have the additional learning needs of their children met suggests that the recent media messaging, 'every ACT public school is a great school', does not ring true for students with disabilities.

A common theme among the schools that have this reputation appears to be strong leadership and cultures that are focused on inclusion. Families are seen as part of a team of supports and are listened to, teacher training in various aspects of inclusion (such as sessions on specific disabilities) is prioritised, and reasonable adjustments are thoughtfully built into academic support, social support, and behaviour management. I would recommend the strategy pays particular attention to ways this leadership and culture are built into other ACT schools to achieve consistency across schools that is aimed at best practice inclusion.

Despite the acknowledgement of the Directorate that "parents need to have confidence that all schools are willing or able to meet their child's individual needs"³ some families raise concerns about their schools and struggle to access appropriate support or reasonable adjustments. This can lead to behaviour management techniques that result in a disruption to a child's access to education and in significant rates of school refusal.

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability⁴ referred to the 'discrimination of access', which is a pattern of informal discouragement of children young people with disabilities from attending their school of choice, and suggests this discouragement takes place at significant levels across Australia. My anecdotal evidence suggests it is happening in ACT schools through a reluctance of some schools to properly engage with families and with students with disabilities to achieve appropriate levels of reasonable adjustment. This results in those families who can do so leaving the school or avoiding enrolment in the first place.

Discrimination of access runs alongside issues regarding the appropriateness and adaptability of education and learning. Lack of reasonable adjustments, lack of individualised supports, inflexible curricula, lack of culturally responsive teaching, lack of appropriate training for school staff, and the use of inappropriate behaviour management have been identified by the Royal Commission as significant issues in the education systems throughout Australia. This is supported by the concerns brought to me by parents and carers of students with disabilities in the ACT.

³ Education Directorate, *Inclusive Education for Children and Young People with Disability in ACT Public Schools*. 2021:11

⁴ Issue Paper: Education and learning. 30 October 2019

SCHOOL REFUSAL AND OTHER STUDENT ATTENDANCE PROBLEMS

Cycles of suspension and exclusion were noted in the 2015 Schools for All Children and Young People report.⁵ I commend the Government on the passage of the *Education Amendment Act 2022*, which will bring greater regulation, consistency, and transparency in respect of the use of suspensions and exclusions across ACT schools. However, I am aware of continued concern among families that challenges with student attendance (such as school refusal, disengagement, and school exclusion) disproportionately impact students with disabilities and can result in a child's access to their learning being disrupted. Families report that some forms of behaviour management lead to students being prevented from joining excursions, sent to other rooms away from their peers, placed in isolated areas of their classrooms or socially isolated during breaks.

Children with some forms of disability, particularly neurodiverse students, experience very high levels of anxiety that families indicate is linked to a lack of appropriately applied reasonable adjustments, both in the classroom and during breaktimes or excursions. This anxiety results in school refusal and disengagement that, based on anecdotal information, appears disproportionately high.

I have found it difficult to reliably ascertain the rate of school refusal among students with disabilities in the ACT, but would recommend this be established, if not already known to the Directorate, as it is one indication of how supported students feel at school. As noted above, given that current thresholds for additional support leave many students with disabilities without additional funded assistance, it is important that such measures include students on ILPs and other modified learning arrangements, and not only those eligible for funded learning support.

PRACTICAL IMPLEMENTATION OF STRATEGY

As the Education Directorate's background paper outlines, there have now been numerous inquiries, reviews, reports, and reforms assessing the gaps in access to quality education for some students with disabilities. This history, complemented by the targeted community conversations being held this year, provides a wealth of knowledge and I welcome the commitment to an Inclusive Education Strategy that translates knowledge into action. However, a major barrier between the goals of inclusion and implementation at an individual school level is appropriate funding.

I strongly recommend that the strategy is realistically costed so that practical implementation is facilitated from the outset. It is too often the case in the ACT that visions for inclusion lack the detailed planning and budgetary processes required to ensure they can be implemented at all levels.

CONCLUDING COMMENTS

I thank the Education Directorate for the opportunity to contribute to its efforts to strengthen inclusivity of education in the ACT. True inclusion of students with disabilities will have a tremendous impact on long-term education and wellbeing outcomes.

Should you be interested in discussing any aspects of this submission please contact my office either by phoning 6205 2222 or by emailing actkids@act.gov.au.

Yours sincerely,



Jodie Griffiths-Cook
Children and Young People Commissioner
ACT Human Rights Commission

⁵ Shaddock, Anthony, Dr., Packer, Sue Dr., Roy, Alasdair; *Schools for All Children and Young People: Report of the Expert Panel on Students with Complex Needs and Challenging Behaviours*. November 2015