

Education (General Provisions) (Helping Families with School Costs) Amendment Bill 2023

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**Education (General Provisions) (Helping families with school costs)
Amendment Bill 2023**

Submission by

Queensland Advocacy for Inclusion

to

Education, Employment and Training Committee

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About Queensland Advocacy for Inclusion

Queensland Advocacy for Inclusion (**QAI**) is an independent, community-based advocacy organisation and community legal service that provides individual and systems advocacy for people with disability.

Our purpose is to advocate for the protection and advancement of the needs, rights, and lives of people with disability in Queensland. QAI's Management Committee is comprised of a majority of persons with disability, whose wisdom and lived experience guides our work and values.

QAI has been engaged in systems advocacy for over thirty years, advocating for change through campaigns directed at attitudinal, law and policy reform.

We also provide individual advocacy services in the areas of human rights, disability discrimination, guardianship and administration, involuntary mental health treatment, criminal justice, NDIS appeals, and non-legal advocacy for young people with disability including in relation to education. Our individual advocacy experience informs our understanding and prioritisation of systemic advocacy issues.

Since 1 January 2022, QAI has also been funded by the Queensland Government to establish and co-ordinate the Queensland Independent Disability Advocacy Network (QIDAN). QIDAN members work collaboratively to raise the profile of disability advocacy while also working towards attitudinal, policy and legislative change for people with disability in Queensland.

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Introduction

Thank you for the opportunity to make a submission in relation to the *Education (General Provisions) (Helping families with school costs) Amendment Bill 2023 (the Bill)*. QAI welcomes the Bill and the call to fully fund Queensland's state schools.

The right to education for students with disability has long been a focus of QAI's systemic advocacy. Having witnessed the experiences of our clients and many families within our community over the years, QAI is deeply concerned about the extent to which some students with disability are being denied their right to an inclusive education. Practices such as gatekeeping, the overuse of school disciplinary absences, the use of Restrictive Practices and a lack of access to reasonable adjustments are routinely denying students with disability their right to access education on an equal basis with others.

These issues arise due to various reasons, including the culture of the school and the extent to which its leadership team values and prioritises inclusive education, as well as the level of funding and support state schools receive to provide reasonable adjustments to their students with disability.

The need for more funding in Queensland state schools is also very timely, with the final report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability making several recommendations regarding inclusive education that will require increased resourcing to fully implement.

QAI's submission will discuss some of the consequences of inadequately funding state schools for students with disability, suggest some programs that need funding and will conclude with some feedback on the drafting of the Bill.

1. The consequences of inadequately funded state schools for students with disability

Inadequately funded state schools have significant consequences for students with disability and their families. It impacts the student's ability to participate in education on an equal basis with others and can affect the family's ability to access disability supports outside of the school environment.

While the introduction of the National Disability Insurance Scheme (NDIS) has improved access to support for many people with a disability, its complex funding structure and its interface with state-based services, such as Education, has brought a level of complexity that can perversely end up preventing the person with disability from accessing the help they need.

QAI is aware of instances where students have been told by their school that they must use NDIS funding to access certain supports during school hours. Often, students will not have sufficient NDIS funding to facilitate this. In instances where they do, it can mean that the student and their family have reduced access to support outside of school hours.

Inadequate funding in state schools also means that students with disability struggle to receive the reasonable adjustments and supports they require in the classroom. This can lead to students with disability being inappropriately placed on part-time education plans or simply asked to go home early because they are told by the school that "there is no more teacher aid funding available."

QAI notes that Queensland is reportedly not meeting its education funding obligations to fund 80% of education costs alongside the Commonwealth Government's 20% contribution.¹

The consequences of insufficient funding, including insufficient funding for reasonable adjustments for students with disability, are significant. This is particularly true for students with autism and/or attention hyperactivity disorder (ADHD) who, in the absence of adequate support, can experience escalations in behaviour that would otherwise be avoided if reasonable adjustments appropriate to their needs were in place.

Escalations in behaviour in the absence of sufficiently skilled staff can then lead to the use of disciplinary measures such as a suspension or exclusion and/or the use of Restrictive Practices, further entrenching the child's segregation within the school community.

QAI is currently leading the *A Right to Learn*² campaign which is calling for a Parliamentary Inquiry into the over-use of school suspensions on certain students in Queensland state schools. This is based upon research by QAI and the Centre for Inclusive Education (C4IE) which found evidence of disproportionate and excessive suspensions for First Nations students, students with disability and students in out of home care. For example, students with a disability made up only 18.9% of enrolments in 2020 yet received 49.2% of all short suspensions (1-10 days). This equates to 2.18 suspensions on average per student.³

Our research also showed that:

- When students are in more than one of these groups, the risk of suspension is even greater.⁴
- Students receiving social-emotional adjustments at school, such as neurodiverse students, are also issued repeat suspensions at a higher rate than students with other types of disability.⁵
- Disability is the most common factor among suspended students, raising urgent questions as to whether students with disability are receiving the adjustments and support to which they are entitled under legislation.

All of this is occurring despite overwhelming evidence as to the ineffectiveness of school disciplinary absences in reducing behaviours of concern. Graham highlights the fundamentally flawed assumption upon which school disciplinary absences are based – that is, that challenging behaviour is a conscious choice enacted by individuals who can self-regulate their emotions.⁶ By punishing students who exhibit challenging behaviours, it is presumed that school disciplinary absences will act as a deterrent and change the student's decision-making prior to 'choosing' their behaviour in future. However, this grossly misconstrues the nature of 'challenging behaviour',

¹ McMahon, A. (n.d.). *Fully Fund Queensland Schools*. [online] Amy MacMahon - Greens MP for South Brisbane. Available at: <https://www.amymacmahon.com/schools> [Accessed 26 Nov. 2023].

² <https://www.arighttolearn.com.au/>

³ Graham, L.J., Callula Killingly, Alexander, M. and Wiggans, S. (2023). Suspensions in QLD state schools, 2016–2020: overrepresentation, intersectionality and disproportionate risk. *Australian Educational Researcher*. doi:<https://doi.org/10.1007/s13384-023-00652-6>.

⁴ Ibid

⁵ Ibid

⁶ Graham, L. (2020) Questioning the impacts of legislative change on the use of exclusionary discipline in the context of broader system reforms; a Queensland case study; *International Journal of Inclusive Education*, 24:14, 1473-1493

which is often a reflex communication strategy for an individual with communication difficulties in situations of heightened distress. It can also be a manifestation of a person's disability.

Insufficient funding in schools means that teachers are ill-equipped to support students with diverse learning needs and prevents teachers and schools from providing an inclusive education, as per Queensland's obligations under Australia's Disability Strategy, the *Human Rights Act 2019* (Qld) and the Convention on the Rights of Persons with Disabilities (CRPD).

By failing to fund and facilitate accessible teaching strategies and learning environments, students with disability are pathologized and seen as a problem. They are blamed for behaviour that occurs because of factors that lie beyond their control. Consequently, negative attitudes towards disability remain, entrenching stigma and resulting in discriminatory practices, such as the over-use of school disciplinary absences for students with disabilities. By failing to provide individualised supports and reasonable adjustments, we thwart the attitudinal change that needs to occur for people to become accepting of difference in our community.

Even when reasonable adjustments are provided, the allocation of resources can fail to provide what is needed for a student with a disability. Money might collectively be spent on equipment or additional teacher aide hours, however the individual support needs of the student can remain unaddressed.

The following case studies are typical of the circumstances faced by QAI's Young People's Program's advocacy clients:

Case studies

Case study 1

Belinda is a primary school student with ASD Level 3, ADHD, language disorder and significant sensory processing issues who was permanently excluded from her school following repeat suspensions (six in total), commencing when she was eight (8) years old. Belinda was thriving in a mainstream school with support from the Inclusion Support Department until a change of key staff in that Unit significantly altered the inclusivity of the school, and her educational experience. While Belinda had been accustomed to an inclusive and disability-aware schooling environment, the new Head of Special Education failed to provide reasonable adjustments in circumstances that led to an escalation of behaviour. This ultimately led to disciplinary action by the school, including six (6) suspensions, the application of Restrictive Practices (Belinda was locked in a sensory room on several occasions and placed in a segregated space during school hours). Following her exclusion, Belinda experienced a sustained period where she received no educational materials or support, which her mother sought to enrol her in another school. Belinda attended a total of 38 days of school in the 2020 school year.*

Case study 2

Andy is a young man in high school who had been permanently excluded from his school following an incident. Andy and his mother felt that the incident occurred because of a disruption in his daily routine and lack of preparation around the changes. These are known triggers for Andy due to his disability – intellectual impairment and Autism*

Spectrum Disorder. Andy's mother approached QAI's Young Peoples Program (YPP) for assistance to appeal the exclusion decision. The Advocate assisted in drafting the appeal letter and drafting a response to the Principal's subsequent reply. The Principal's decision was amended to an exclusion from the school for a period of four (4) months. Unfortunately, when the exclusion period had ended, Andy was not able to easily re-enrol at the school. Andy's mother contacted the Advocate after several weeks of communicating with the Regional Case Manager about Andy's education moving forward. Approximately 23 hours of work over four weeks was required by the Advocate to liaise with the Autism Hub and the Assistant Regional Director to negotiate Andy's enrolment and supports. Unfortunately, Andy was not able to be supported to return to the previous school, despite wanting to return, and at short notice was required to transition to a new high school.

**Names have been changed to protect confidentiality*

2. The consequences of excessive school suspensions and exclusions

The consequences of excessive suspensions and exclusions (because of insufficient funding in schools) are profound, with individuals, families, and the broader community all impacted.

Students removed from school following a suspension or exclusion are denied access to educational materials, learning opportunities and critical chances for relationship building and skill development. Students do not always receive work to complete at home or appropriate support to continue their education.⁷ They report feeling anxious, humiliated, and isolated from their peers, all of which then impacts their ability to successfully reintegrate back into school following their absence.

Sometimes students are forced to move schools but struggle to enrol in other schools due to enrolment management plans and gatekeeping practices of some school principals, leaving the student faced with either Special Education or home schooling and thus reinforcing the segregated model that inclusive education policies are seeking to overcome. This is particularly problematic for students in rural or remote parts of Queensland, where there are limited or no other schools in which to enrol.

The long-term impacts of school disciplinary absences can also be severe. Research has demonstrated that students who have received school disciplinary absences can go on to experience poorer mental health, prolonged unemployment, increased stigma and feelings of rejection, and an increased risk of homelessness.⁸

Immediate consequences for parents can also be significant, with many reporting elevated levels of psychological distress as well as financial hardship and risks to the sustainability of their employment. This occurs due to being unable to attend work and/or being forced to take leave whilst tending to their children unexpectedly. These risks are especially high for low-income or single-parent families with limited supports.

⁷ Quin, D., & Hemphill, S. A. (2014). Students' experiences of school suspension. *Health Promotion Journal of Australia*, 25(1), 52-58.

⁸ Graham, L. (2020) Questioning the impacts of legislative change on the use of exclusionary discipline in the context of broader system reforms; a Queensland case study; *International Journal of Inclusive Education*, 24:14, 1473-1493

Anecdotally, there are instances where families are forced to uproot and move to a different regional centre to find better schooling for a child who is repeatedly treated unfairly and whose education is highly disrupted by the misuse of school disciplinary absences. This can have a significant impact on a single parent who has to find alternative employment and housing in a new location in order to move the child to another school. This also impacts the siblings of the affected child who must leave their established schooling to move to the new location and new school.

Education is fundamentally about socialising students and preparing them for adult life. It teaches essential skills and facilitates pathways to employment and the realisation of a meaningful life. However, for some students, it is the beginning of the ‘school-to-prison pipeline’, where marginalised and excluded young people are at greater risk of incarceration.⁹ The association between school disciplinary absences and antisocial behaviour resulting in prison sentences is well established, both in Australia and overseas. The lack of supervision that occurs following a school disciplinary absence increases the likelihood of students engaging in risk taking behaviour and therefore coming into contact with the criminal justice system.¹⁰ This is particularly concerning for students with disability and Aboriginal and Torres Strait Islander students, given the overrepresentation of both people with disability and First Nations Australians in Queensland’s correctional facilities. The long-term costs can be very high. For individual students, they can become alienated from school and engage in behaviours that become ‘an entrenched lifestyle’.¹¹ For society, there are repercussions for community safety and a need for increased expenditure on an ever-growing prison population.

3. What needs to be funded

In order to ensure no student is left behind, Queensland must commit to funding and implementing a truly inclusive education system. The Australian Alliance for Inclusive Education defines inclusive education as:

“...a legally supported, evidence-based way of delivering education that recognises the individual characteristics of all students, offers pedagogic alternatives that cater for the diverse educational needs of each child and respects the right of every child to be a part of their communities. It is also a fundamental human right of the child recognised in a range of international human rights instruments and treaties.”¹²

Individualised teaching and solutions are fundamental to the provision of inclusive education. Inclusive education is about recognising the right of every young person to be welcomed as a valued learner and involves adapting learning environments and teaching approaches to ensure the young person can participate in education on an equal basis with others.¹³

⁹ Australian Institute of Criminology (2017) Trends and issues in crime and criminal justice; <https://www.aic.gov.au/sites/default/files/2020-05/tandi531.pdf>

¹⁰ Hemphill S, Broderick D & Heerde J 2017. Positive associations between school suspension and student problem behaviour: Recent Australian findings. Trends & issues in crime and criminal justice no. 531. Canberra: Australian Institute of Criminology. <https://www.aic.gov.au/publications/tandi/tandi531>

¹¹ Ibid

¹² <https://allmeansall.org.au/for-parents/>

¹³ Australian Coalition for Inclusive Education, “Driving change: A Roadmap for achieving inclusive education in Australia”, February 2021, p4

There is extensive research that demonstrates the efficacy of inclusive education and the many benefits it brings, not just to students with disabilities but to all students in the classroom. For example, a systematic review of 280 studies from 25 countries established clear and consistent links between inclusive education settings and substantial short and long-term benefits for students with and without disabilities.¹⁴ According to the Australian Alliance for Inclusive Education:

“Research indicates that included students develop stronger reading and math skills, have better school attendance, have better behaviour, and are more likely to graduate than students who are not included. As adults, students with disabilities who have been included are more likely to be enrolled in postsecondary education, and to be employed or living independently. Evidence suggests that in most cases there are no adverse effects for typical students who are being educated in an inclusive classroom. Some research shows that these students are more accepting of differences and less prejudiced.”¹⁵

High numbers of school disciplinary absences in Queensland state schools suggests a lack of reasonable adjustments, inadequate positive behaviour support strategies and a workforce that is insufficiently trained in trauma-informed practice. It may also be linked to large classroom sizes which make it difficult for teachers to provide individualised learning strategies to support students with diverse learning needs.

There are numerous evidence-based approaches to student support which have proven successful in reducing challenging behaviour in the classroom and which have improved outcomes for students at risk of falling behind.

We provide the following suggestions of programs and supports that require an urgent increase in funding, but this list is by no means exhaustive:

First, reasonable adjustments are a key determinant of success for students with disability in education and are a fundamental human right enshrined in state, federal and international law, yet they are often overlooked as an evidence-based mechanism for ensuring long-term educational engagement and success. Reasonable adjustments ensure students with disability have access to the necessary support for their general education, social-emotional learning, relationship building, and classroom behaviour. They are highly individualised and must be evidence-based to appropriately support students with disability in the classroom. Despite the availability of processes to request reasonable adjustments, many students experience significant barriers to obtaining the supports that they need.

The resourcing model for reasonable adjustments has recently changed in Queensland. While reasonable adjustments and supports are now available to a greater number of students, QAI understands that the changes have not been accompanied by an increase in the amount of funding available to provide reasonable adjustments to students with disability, meaning that there is now potentially less money available to each student who needs support.

Second, there is the Multi-Tiered Systems of Support (MTSS) model. MTSS is an education-based support structure that focuses on layering support to students in order to identify those with

¹⁴ Hehir, T., Grindal, T., Freeman, B., Lamoreau, R., Borquaye, Y., & Burke, S. (2016). A summary of the evidence on inclusive education. ABT Associates. ERIC. http://alana.org.br/wp-content/uploads/2016/12/A_Summary_of_the_evidence_on_inclusive_education.pdf

¹⁵ <https://allmeansall.org.au/for-parents/>

additional academic, behavioural, and social-emotional learning needs.¹⁶ MTSS was a key recommendation of the inquiry into suspensions and expulsions in South Australia. MTSS emphasizes the importance of problem-solving, instruction and intervention in educational environments.¹⁷ MTSS includes three tiers, the first being a universal layer of support designed to provide assistance and instruction to all students. The first tier is also used to identify students requiring additional support.¹⁸ These students are then introduced into the second tier, that focuses on small group learning and instruction. From tier two, the students needing additional, individualized support or guidance are identified. The third tier is intended to only be used sparingly as it takes students away from the classroom.¹⁹ MTSS prioritises inclusion through focusing on group learning, providing all students, regardless of disability, a level of support and guidance and aims to be responsive to the changing needs of students.²⁰ The entire framework has the ability to be modified to suit the needs of different schools or cohorts and is highly compatible with other inclusive education models, including Collaborative and Proactive Solutions.

This model has been used successfully in some very challenging public school districts in the United States, such as Chicago Public Schools. For example, students were explicitly taught self-regulation and responsible decision-making skills, as part of a focus on their social-emotional learning needs.²¹

Third, there is the Collaborative and Proactive Solutions (CPS) model, by Dr Ross Greene. CPS views 'challenging' behaviour as a form of communication through which children demonstrate that they are having difficulty meeting expectations.²² It is not limited in application to students with disability but is of specific value to this cohort. The framework seeks to avoid the negative characterisations of students with additional support needs by focusing on understanding the reasons influencing certain kinds of behaviour instead of attempting to stop this behaviour entirely.²³ In education this model can be used to identify students' lagging skills and/or areas where they need additional support.²⁴ CPS focuses on crisis prevention as opposed to crisis management through seeking to proactively identify and resolve the issues or challenges a child is facing in order to reduce the prevalence of 'challenging' behaviours.²⁵ To do so, CPS seeks to engage all parties closest to the issue, including students, teachers, guardians and other caregivers in order to find a well-rounded approach to supporting a child that is consistent both inside and outside of school.²⁶ This approach supports educators' and their classroom management, promotes

¹⁶ Linda J Graham et al., "Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian Government Schools," 2020, pp.140-141.

¹⁷ Ibid pp.140-142

¹⁸ Ibid pp.141-145

¹⁹ Ibid pp.141-145

²⁰ Ibid pp.140-141

²¹ For more information on MTSS, see Linda J Graham et al., "Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian Government Schools," 2020, p111

²² Ross W. Greene and Lives in the Balance, "To End the Use of Restraint and Seclusion, You're Going to Need New Lenses, New Timing, and New Practices: True Crisis Prevention," Lives in the Balance, 2020, <https://truecrisisprevention.org>. pp.1-4

²³ Ibid p.2

²⁴ Ibid p.2

²⁵ Ibid p.3

²⁶ Ross W. Greene and Jennifer Winkler, "Collaborative & Proactive Solutions (CPS): A Review of Research Findings in Families, Schools, and Treatment Facilities | SpringerLink," *Clinical Child and Family Psychology Review*, no. 22 (2019): pp.550-553; Glenys Mann et al., "Developing Productive Partnerships with Parents and Carers," in *Inclusive Education for the 21st Century* (Taylor & Francis Group), pp. 336–353

students' skill development and engagement in problem-solving, and providing cohesive standards of care for students.²⁷

Fourth, Circles of Support is a visual model for understanding the rings of support that surround a child that advocate for their needs and support their goals.²⁸ This model can be used to better understand all students and their specific support networks but is particularly beneficial for assisting students with disability. In an education setting, where students are exhibiting behaviour that educators wish to address, there is an opportunity to facilitate a formal meeting of a student's circle of support. These meetings should involve parent, caregivers, educators and any other specialist involved in a student's care to collaborate to understand a student's behaviour and develop an action plan to better support them in and out of school. This model is highly congruent with establishing reasonable adjustments for students with disabilities and the Collaborative and Proactive solutions framework. The value of Circles of Support is the bringing together of all those responsible for caring for a student to ensure they are receiving consistent support and that all parties are equally informed about a child's circumstances. Circles of support is a highly individualised way to best support vulnerable student groups, particularly those most at risk of receiving school disciplinary absences, as these communication structures are able to be tailored to best suit a students' personal family and care arrangements.

Introducing smaller classroom sizes and additional student support staff also has the potential to break down many of the barriers students face in relation to accessing an inclusive education. Greater funding must go towards dedicated school staff whose role is to work with students at risk falling behind. These staff could include:

- Additional teacher aide roles, including a teacher aid in all prep to year3 classrooms as a minimum
- Inclusion Officers
- NDIS navigators to ensure students with disability are on the NDIS, and if they have access to the NDIS that they are using their plans effectively to get their needs met. This is not about the NDIS being used in schools, but to ensure that when students with disability step outside the gate, they have appropriate access to supports like therapy and services to enhance their learning and build capacity, which will then result in better outcomes in school.
- Qualified mental health professionals and advocates in all schools to support students with disabilities, their families, and the school to be on the same page about what the student needs to succeed.
- Occupational therapists, speech therapists and psychologists to immediately ensure every student with disability has the adjustments they need to succeed in their learning environment.

²⁷ Ibid p558

²⁸ Resourcing Inclusion Communities, "Circles of Support," 2019.

4. Feedback on the drafting of the Bill

QAI notes the wording of section 56D (1)(d)(ii) of the Bill which refers to “students with a physical or intellectual disability”. QAI questions why students with a physical and intellectual disability have been highlighted in this provision. It is unclear why the section would not also include students with other types of disability, including neurological, neurodevelopmental or psychosocial disabilities. The terminology ‘physical and intellectual disability’ does not adequately capture all disability types and QAI recommends amending this provision to “particular requirements of students with a disability attending the school” to ensure the Bill applies to all students with disability, as is presumed to be the intention behind the provision.

Conclusion

QAI thanks the Committee for the opportunity to contribute to this inquiry. We are happy to provide further information or clarification of any of the matters raised in this submission upon request.