

Education (General Provisions) and Other Legislation Amendment Bill 2024

Submission No: 484
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Dear Committee Members,

I am writing to express my strong objections to the proposed changes to the *Education (General Provisions) Act 2006*, specifically regarding home education and the requirement to adhere to the Australian Curriculum. As a parent of a child with Specific Learning Disabilities (SLD), including Dyslexia, Dysgraphia, and Dyscalculia, I have grave concerns about how these changes would impact my child's education and well-being.

If you are unfamiliar with these Specific Learning Disabilities (SLD) I please ask you to educate yourself at these reputable sources:

<https://codereadnetwork.org/> <https://www.madebydyslexia.org/> <https://dsf.net.au/learning-difficulties/dysgraphia/what-is-dysgraphia> <https://dsf.net.au/learning-difficulties/dyscalculia> <https://dsf.net.au/learning-difficulties/dyslexia>

My first concern is around Clause 68 amendment of s 217 (Standard Conditions)

I vehemently object to this amendment as it will negatively impact my child's ability to get an education specific to her learning needs.

My child attended a State school from Prep to Grade 3, where for the first three years of schooling her SLDs went undiagnosed as her struggles were missed and dismissed by her teachers, as they are not trained on how to identify students with learning disabilities as stated: *"Many dyslexic children are never diagnosed because teachers do not have the tools or critically, the foundational training required to screen for learning disorders and because the costs for a formal assessment by a psychologist (educational and developmental / clinical / neuropsychology) is prohibitively expensive (between \$1,000 and \$3,000). Dyslexia assessment and management is not covered by the Medical Benefits Scheme nor by the National Disability Insurance Scheme because it is considered by government to fall within the remit of education"*¹.

After finally receiving an SLD diagnosis in Grade 3 - at significant cost to our family and immense personal and educational trauma for our child – we worked with her school to get her the support she desperately needed. Yet despite this she did not receive the direct and explicit instruction she needed in class to be able access the curriculum. As the *Disability Discrimination Act 1992* states education providers should ensure that students with a disability can access an education "on the same basis as their peers", supported by reasonable adjustments and teaching strategies tailored to meet their individual needs.

For my child this did not happen. There were no differentiation strategies used to meet my child's specific learning needs across the curriculum. There was no individualised instruction in class tailored to her learning disability, which meant her ability to "access" the curriculum content being taught was non-existent.

I also draw your attention to the fact that a discrepancy exists between when a student receives a diagnosis of SLD (usually around third or fourth grade) and the window for most effective intervention (prep-grade 1)². We are one of the fortunate families who was able to afford to get a formal diagnosis, but it came too late for our child, as this statement supports: "too late for the student to efficiently close the gap with their peers and at a cost to school systems through the

¹ https://www.education.gov.au/system/files/documents/submission-file/2023-07/TEEP_Code%20Read%20Dyslexia%20Network%20Australia%20Attachment.pdf

² https://www.education.gov.au/system/files/documents/submission-file/2023-07/TEEP_Code%20Read%20Dyslexia%20Network%20Australia%20Attachment.pdf

need for additional learning support and, or accommodation for these students... It is commonly understood that it takes four times longer to remediate a fourth grader than a first grader³. "Students are failing because of the persisting dominance of reading instructional approaches that are not based on scientifically proven classroom practices"⁴.

Enforcing the Australian Curriculum on home educators would also be in direct contravention of the *Disability Discrimination Act 1992*, specifically section 22(2A)(a)and(b) whereby "it is unlawful for an education provider to discriminate against a person on the ground of the person's disability: (a) by developing curricula or training courses having a content that will either exclude the person from participation, or subject the person to any other detriment; or (b) by accrediting curricula or training courses having such a content." By not tailoring the Curriculum to specifically address how students with SLD's will access the content, imposing the Curriculum upon my child, has and will continue to discriminate against my child.

Nowhere in the Australian Curriculum does it reference how it will be taught and applied to students with a SLD. Every element of the curriculum is inaccessible for my SLD child. **How does the Qld Govt propose to resolve this?**

Furthermore, the proposal overlooks the benefits of home education, which include personalised learning, reduced stress, and greater flexibility and is fundamentally flawed in attempting to make home education like that delivered in classrooms. As suggested, "*the work of the home educator, particularly one engaged in ... self-directed education, should be more than just achieving grades.... Rather, parents should be ensuring their children are satisfied and happy, are able to manage their feelings and needs, and improve the world more broadly, beyond the four walls of their homes*"⁵. It would be far more beneficial for the State Government to build better relationships with the home educating, if their goal is indeed, to improve their safety and welfare, and ensure the educational outcomes of all children in the community.

In addition, "*what cannot be ignored are the many parents who choose to home educate in the face of schools' failure to meet their children's needs... a good deal of the families who choose home education in Australia are doing so because of the failure of mainstream schools to meet their children's needs. It seems that many of the families who choose to home educate do so after a period of schooling...*"⁶.

In addition, the Australian Curriculum was developed by ACARA for implementation by state and territory school and curriculum authorities – not for home educators. It also does not demonstrate a "high quality education" as demonstrated by the disturbing literacy rates across Australia, particularly in Queensland as evidenced by the fact that: "Almost two in five Queensland students are failing to meet new national standards for reading, writing and maths – the worst outcome of any mainland state"⁷. Adding to this, NAPLAN results ... show that on almost every test – reading, writing, spelling, grammar and numeracy – a higher percentage of Queensland students were given the lowest score than in NSW, Victoria, Western Australia and South Australia⁸. Results from the 2021 NAPLAN indicated that for reading, 4.1% of Year Three students performed below the

³ https://www.education.gov.au/system/files/documents/submission-file/2023-07/TEEP_Code%20Read%20Dyslexia%20Network%20Australia%20Attachment.pdf

⁴ https://www.education.gov.au/system/files/documents/submission-file/2023-07/TEEP_Code%20Read%20Dyslexia%20Network%20Australia%20Attachment.pdf

⁵ <https://www.igi-global.com/pdf.aspx?tid=266741&ptid=256633&ctid=15&t=Preface&isxn=9781799866817>

⁶ <https://www.igi-global.com/pdf.aspx?tid=266741&ptid=256633&ctid=15&t=Preface&isxn=9781799866817>

⁷ <https://www.brisbanetimes.com.au/national/queensland/qld-students-fall-behind-in-naplan-tests-and-girls-still-beat-boys-20230817-p5dx6e.html>

⁸ <https://www.brisbanetimes.com.au/national/queensland/qld-students-fall-behind-in-naplan-tests-and-girls-still-beat-boys-20230817-p5dx6e.html>

national standard. This increased to 4.9% and 6.2% for Years Five and Seven students respectively, and in Year Nine, 9.3% of students performed below the national standard. Similar trends can be seen in other domains of the assessment, for example, in writing, 3.3% of Year Three students are below standard but this increases to 6.7% in Year Five, 9.3% in Year Seven, and 17.8% in Year Nine (ACARA, 2021)⁹.

Despite these disturbing statistics, "the system is failing to intervene early and effectively...as it is stuck in a reactive and obsolete "wait to fail" model...so the number of students with low literacy is growing rather than shrinking as students progress from primary school to high school"¹⁰. Furthermore, the impact of not being able to identify learning needs or provide appropriate intervention "puts them at significant disadvantage, with little likelihood that they will achieve close to their academic potential." And "the negative effects of ineffective teaching of children with learning difficulties and disabilities are wide-reaching. Research has shown that many students with SLD's are at significant risk of disengagement from education when faced with inappropriate support". "They often experience struggles and challenges every day as part of school because of their learning difficulty, and so it can have an impact on the children's social, emotional, and mental health in various ways as well"¹¹.

The school's abject failure to accommodate my child's needs led us to pursue home education, where we could provide her with individualised instruction tailored to her learning disabilities. Enforcing the Australian Curriculum on home educated children, especially those with SLDs, would be detrimental and discriminatory, as it does not address their specific needs for direct and explicit instruction.

Dictating adherence to the Curriculum will have far reaching and I propose unintended consequences for the home educating family, especially those with SLD child/ren. If you make compliance with the curriculum a requirement for home educating families, then you also tie us to the impossible task of adhering to its assessment and reporting requirements.

Asking home educators to provide a written report in relation to each subject area that is to the "satisfaction" of the Chief Executive that "demonstrates the educational progress of the child" is inherently unfair and unjust. This is holding home educators to a higher standard than Schools, and it makes the judgement of what progress a home educated child makes up to the Chief Executive to assess if that is satisfactory. My child's educational progress is forever hindered because of the failure of the state school system as discussed previously. The progress that my child makes through home education is not purely academic. Ensuring our child is receiving the best literacy and maths instruction that supports her SLD's and providing her with the opportunities to be a well-rounded happy and healthy citizen of the world trumps any "educational progress" metric this clause will enforce.

In his book¹², Murphy evaluates these arguments. He notes that both homeschooling advocates and opponents do not consider academic outcomes to be the best evaluative measure for homeschooling. Indeed, research shows that parents often have multiple goals in homeschooling,

⁹ <https://ro.ecu.edu.au/cgi/viewcontent.cgi?article=5529&context=ajte>

¹⁰ <https://study.unimelb.edu.au/study-with-us/professional-development/blog/why-its-vital-educators-understand-student-learning-disabilities-to-ensure-effective-teaching-and-learning>

¹¹ <https://study.unimelb.edu.au/study-with-us/professional-development/blog/why-its-vital-educators-understand-student-learning-disabilities-to-ensure-effective-teaching-and-learning>

¹² Joseph Murphy. 2012. Homeschooling in America: Capturing and Assessing the Movement, Corwin, SagePublicationsLimited, 54-73

some of which they consider more important than academic achievement. Furthermore, academic achievement is not the same goal for home educators as it is for schools. There is no benefit to be achieved by imposing that home educators follow the Australian Curriculum. If anything, it will be detrimental to home educators and their child/ren.

If the curriculum was tangibly accessible to all students, then I propose that a huge proportion of children currently being home educated would still be at school. **It is the abject failure of the state school system to provide my child with the education they need and deserve that forced us to home educate.**

My second concern is around Clause 18 – amendment of s 7 (Guiding Principles)

This amendment causes great concern as the wording suggests the QLD Government knows what is in the best interests of our child. It is our fundamental right and responsibility as parents to do what is “in the best interests” of our child. Suggesting that we must prove that home education is in the best interests of our child is inconceivable and wrong. My child was discriminated against at school because of her learning disabilities. We were forced to withdraw her because of this and the emotional turmoil she was suffering as a result. We decided to home educate our child BECAUSE it was in her best interests. This decision was not made lightly and at great personal cost due to giving up work opportunities and additional financial strain.

The best interests of my child are met by getting her education at home through programs that are specifically designed for children with her SLD’s, such as specialist literacy and maths programs that enable her to learn in the way she needs to – not by following a national curriculum that does not address her specific learning needs.

Fundamentally, these proposed amendments are inherently unjust and fundamentally infringe upon the rights of parents.

A parent’s right to educate their child is seen as a fundamental right. Around the world, families are considered as their child’s first educator. Families who choose to homeschool do so for a variety of reasons and the Home Education Unit’s (HEU) own research supports this proposition: *research conducted in November 2022, which concluded that the majority of home educating families do so because they can provide their children with “more personal, individual learning at their child’s pace” (Department of Education, 2022). The report identifies key benefits cited by home educating families, such as “less stress for the child (and therefore the family), more tailored learning solutions, and greater flexibility in what and how learning occurs” (Department of Education, 2022).*

Research also supports the proposition that onerous compliance requirements lead to families disengaging with authorities and does not lead to better outcomes for students¹³. In addition, *“what cannot be ignored are the many parents who choose to home educate in the face of schools’ failure to meet their children’s needs... a good deal of the families who choose home education in Australia are doing so because of the failure of mainstream schools to meet their children’s needs. It seems that many of the families who choose to home educate do so after a period of schooling...”*¹⁴.

¹³ <https://www.igi-global.com/chapter/reliable-or-risky/266759>

¹⁴ <https://www.igi-global.com/pdf.aspx?tid=266741&ptid=256633&ctid=15&t=Preface&isxn=9781799866817>

Additionally, Glenn and DeGroof¹⁵ explain that the fundamental right of parents to educate their children is recognized internationally. In fact, human rights doctrine establishes that the right of parents to control and direct their children's education is not only foundational, but also superior to the claims of the State in educating children. They wrote that the right of parents to choose the education for their child is fundamental, and a hallmark of a free society. They went further, stating that *"to deny that choice . . . is unjust and unworthy of a free society."* Homeschooling is, and should be, a component part of that choice set¹⁶.

Furthermore, some countries and international human rights treaties explicitly identify education as a right and most also explicitly recognise the rights of parents to make decisions about the education of their children. And while home education is not mentioned by name in international human rights treaties, *"it can be identified as a specific nexus of other explicit human rights such that it demands respect and protection by the state"* (Donnelly, 2016)¹⁷. As Donnelly (2016) goes on to say, *"The human right of home education emanates out of the demands of other explicitly identified rights including the right to education, the rights of parents to make decisions for and about their children's education, the rights to freedom of conscience and religion and the recognition of the family as the fundamental group unit of society"*¹⁸.

I draw your attention to the following international instruments which **emphatically** support parental rights to home educate their child as they see fit:

- Universal Declaration of Human Rights (UDHR; United Nations, 1948)(to which Australia is a signatory): In response to the atrocities committed during the Second World War, the UDHR recognizes education as both an individual and a parental right. Article 26.1 establishes the right to education, and Article 26.3 establishes that "parents have the prior right to decide what kind of education their children shall receive" (United Nations, 1948). The parental right includes both the right to provide for and also the right to exempt a child from any particular instruction in religious or moral subjects.
- The International Covenant of Economic Social and Cultural Rights (ICESCR) (to which Australia is a party) specifically recognizes that "individuals" as well as "bodies" may form educational institutions (United Nations, 1966a).
- The International Covenant of Civil and Political Rights (ICCPR)(to which Australia has signed and ratified) recognizes that the right of parents to ensure the education of their children in conformity with their religious and philosophical convictions is non-derogable (United Nations, 1966b, Article 18 and Article 4.2).
- Article 2 of Protocol 1 of the European Convention on Human Rights and Fundamental Freedoms (ECHR) strongly enjoins the state in "all areas of education" to respect the convictions of parents (Council of Europe, 1950).
- Article 2 of the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms provides that "in the exercise of any functions which it assumes in relation to education and teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."

¹⁵ <https://jscholarship.library.jhu.edu/server/api/core/bitstreams/0f4bff7d-87f8-4418-b598-b62cce3912e9/content>

¹⁶ <https://www.tandfonline.com/doi/full/10.1080/15582159.2013.848729>

¹⁷ <https://www.educacaodomiciliar.fe.unicamp.br/sites/www.educacaodomiciliar.fe.unicamp.br/files/2022-07/The%20Human%20Right%20of%20Home%20Education..pdf>

¹⁸ <https://www.educacaodomiciliar.fe.unicamp.br/sites/www.educacaodomiciliar.fe.unicamp.br/files/2022-07/The%20Human%20Right%20of%20Home%20Education..pdf>

Is the Qld Govt prepared to contravene these instruments by imposing upon home educators a curriculum that is not fit for purpose and abrogate the rights of parents to choose an education for their child/ren?

In summary, we as parents have the RIGHT to not subject our child to a curriculum that does not meet her educational and personal needs. We, as parents, have the RIGHT and RESPONSIBILITY to provide an educational program to our child/ren at home, that uses the best explicit instructional content that suits my child’s learning disabilities and that meets her educational, social, emotional, mental, physical, and philosophical needs - which allow her to thrive in a way that the state school did not.

If parents are considered their child’s first educator, and there are internationally recognised fundamental rights of parents to choose their child’s educational program – then I implore the State Govt to abandon the proposed amendments to the *Education (General Provisions) Act 2006* and allow us home educating parents to provide the best education we can for our children.

Additional Concerns to be Noted:

Proposed Amendment	Concerns
Clause 63: s 211	The amendment of s211 to decrease the number of days from ‘28 days’ to ‘14 days’ is fundamentally unfair for homeschooling families. This cannot be considered a “reasonable” timeframe for home schooling families to provide sufficient supporting documentations. Homeschooling families also have work commitments, other children, home duties, social and community demands.
Clause 66: s 215	<p>The amendment of s215 is fundamentally unfair and unjust. To make “the failure to decide an application” to the detriment of a child is irresponsible and contrary to the best interests of the child. Making the decision-making period shorter by half – 90 days to 45 days – only places an increased burden on the Chief Executive and will inevitably result in countless families being denied for no other reason than the Chief Executive couldn’t make the decision in time through no fault of the applicant family. Stating that a failure to decide within this shortened timeframe as a “refusal to grant the application” is unjust and wrong.</p> <p>The decision to grant an application for home education should be based on its merits and not on an arbitrary timeframe.</p> <p>Can the Home Education Unit guarantee that they can process all the applications they receive within 45 days?</p>
Clause 68: s217(1)(c)	<p>This clause states that a parent must provide a written report that is “accompanied by evidence satisfactory to the chief executive that demonstrates the educational progress of the child”.</p> <p>This clause raises the following concerns:</p> <ul style="list-style-type: none"> - It places an impossible standard upon any home educating family to provide evidence to support the educational progress of their child.

	<p>If the benchmark is set to the “Chief Executive’s satisfaction” and not what is currently stated as “reasonably requires” – you are placing the entire judgement of any progress upon a State employee who has no vested interest in the home education of my child and the progress of that child against any other metric other than “educational progress”.</p> <p>This clause causes severe concern around a government employee being tasked with deciding whether my child has met some subjective standard of ‘educational progress’.</p> <p>As a parent and home educator of a child with multiple SLD’s and severe anxiety, the measures we use to monitor the progress of our child is not wholly and solely educational.</p> <ul style="list-style-type: none"> - Are they happier? - Are they less stressed? - Are they less anxious? - Are they engaging in their learning? - Have they learned something outside of traditional academics? - Have they been exposed to diverse and enriching social experiences? - Have they been exposed to diverse and enriching educational, cultural, philosophical, natural, environmental experiences that support them as a whole child? <p>It also removes the safeguard of “reasonably require” as the current act provides. Currently a Chief Executive can only require supporting documentation that is ‘reasonable’. Removing any reference to what is reasonable is dangerously unjust.</p>
<p>Clauses 59, 60, 63, 64</p>	<p>These clauses raise serious concerns around the ability to be provisionally registered.</p> <p>Without provisional registration, families will be forced to have a home education plan prepared and ready to submit before they withdraw their child from school. Making the requirement to have a plan submitted before we are granted provisional registration is unjust.</p> <p>My child was withdrawn from school because her emotional wellbeing was deteriorating rapidly due her unmet educational needs and we applied for provisional registration on her last day at school. I could not have had our plan prepared and ready to submit for registration at that point. If we are required to have a plan to submit before we can get registration approved, then you are subjecting our children to significant emotional and educational trauma and infringing upon our rights and responsibilities to act in the best interests of our child/ren.</p> <p>I implore the committee to reconsider removing provisional registration and continue to allow home educating parents, particularly those who are considered “accidental home educators” like us, to have the time and space to figure out what our child needs moving forward and have the opportunity to plan the high-quality education we so desperately want to provide.</p>

	<p>Additionally, halving the amount of time for families to provide additional information or documents to the Chief Executive under s211 from 28 days to 14 days is unfair and unjust. Parents should be afforded a reasonable amount of time to prepare and supply supporting documents.</p>
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