

Education (General Provisions) and Other Legislation Amendment Bill 2024

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The A Right to Learn Campaign

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Legislation Amendment Bill 2024**

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Who is the A Right to Learn campaign?

The A Right to Learn campaign (ARTLC) is made up of a coalition of community organisations and support services. The coalition is publicly calling on the Queensland Government to reduce school disciplinary absences (SDAs) in Queensland State Schools, particularly for students with disability, First Nations students and students in out of home care.

Our coalition partners include Queensland Advocacy for Inclusion, Peakcare Qld, Aboriginal and Torres Strait Islander Legal Service, Youth Advocacy Centre and Youth Affairs Network Qld.

We have the backing of 24 support partners - community organisations who have signed on to our campaign and its values.

Additionally, we have had hundreds of everyday Queenslanders engage with our campaign, whether through attending our events, signing our campaign pledge, emailing their local MP or engaging with our online content. This has led to significant media coverage including in the Courier-Mail and on the ABC.

This is a grassroots campaign built on real life stories of students with disabilities and their families who have suffered as a result of multiple suspensions and exclusions.

These students have a right to learn and that's what we're fighting for.

Introduction

The ARTLC welcomes the opportunity to make a submission on the Education (General Provisions) and Other Legislation Amendment Bill 2024 (the Bill).

While the Bill moves in the right direction towards tightening the use of suspensions and exclusions, it does not go far enough to protect vulnerable students from unfair SDAs.

Between 2016-2020, students with disability received 46% of all short-term suspensions, despite making up about 17% of the Queensland school population.¹

Disabled students are struggling in the classroom because they don't have the supports they need to thrive. Suspensions won't change anything because these kids need support, not punishment.

Suspensions lead to students with disability being further segregated from their peers, falling behind in their learning and failing to gain the skills they need to contribute to the community once they leave school.

¹ QAI and Aboriginal and Torres Strait Islander Legal Service, 2022, 'The need for inquiry into school disciplinary absences in Queensland state schools', <https://qai.org.au/wp-content/uploads/2022/02/QAI-and-ATSILS-submission-to-QHRC-re-SDAs.pdf>

It is even worse for First Nations students with disability who are five times more at risk of suspensions, and students in out of home care with disability who were six times more at risk compared to students not in those groups.²

That's why the ARTLC has developed a set of recommendations to enhance the Bill to ensure all students are given the right to learn.

Recommendations

The ARTLC recommends the following amendment and/or additions to the Bill to ensure all Queensland students are given the right to learn:

1. Suspensions and exclusions as a last resort
2. Appeal rights for all suspensions
3. Implementation of Multi-tiered Systems of Support
4. Greater transparency and accountability
5. The inclusion of student rights

Suspensions and exclusions as a last resort

As recommended by the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission), the ARTLC recommends the Bill be amended to ensure SDAs are truly a last resort measure.

Specifically, the Bill should be amended to implement Recommendation 7.2 of the Disability Royal Commission, which states:

"State and territory educational authorities should review all regulations, rules, procedures and other instruments regulating exclusionary discipline to ensure they:

- adopt the principle that education providers:

- should avoid the use of exclusionary discipline on students with disability unless exclusion is necessary as a last resort to avert the risk of serious harm to the student, other students or staff."*³

The Disability Royal Commission made this recommendation after outlining some of the impacts of SDAs on students with disability, stating:

"Suspensions reduce the amount of time students are in school and receiving instruction, and they adversely affect educational attainment. The process of re-enrolment following a student's expulsion can be lengthy and can be met with

² Linda J. Graham, Callula Killingly, Matilda Alexander and Sophie Wiggans, 2023, "Suspensions in QLD state schools, 2016–2020: overrepresentation, intersectionality and disproportionate risk."

³ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report - Volume 7, Inclusive education, employment and housing, pp 171.

*resistance from the school. Both factors can be detrimental to a student's academic achievement, self-esteem and engagement in education."*⁴

*"Research and past inquiries have shown there is a risk of early criminalisation for students with disability when they become disengaged from education. This is known as the 'school to prison pipeline'. Research commissioned by the Royal Commission identified that children in the criminal justice system, a large proportion of whom are children with disability, had previously experienced school exclusion (suspensions and expulsion)."*⁵

Currently, the Bill permits the use of SDAs at the lower threshold of "best interests", which is contrary to a key recommendation of the Disability Royal Commission and would continue to see students with disability suspended at higher rates than students without a disability.

Therefore, the ARTLC recommends the Bill be amended to make the use of school disciplinary absences a last resort.

Appeal rights on all suspensions

The ARTLC recommends that whenever a school decides to suspend a student, whether it's for one day, five days, or ten days, there must be a way for the decision to be appealed.

This is important because when a student gets suspended, it goes on their school record. This can make it harder for them to enrol in other schools. It also causes problems for the students, their families, and the community.

Even a short suspension can have serious consequences. So, it's fair for students to have a chance to have the decision looked at again.

Some students only go to school for part of the day or for a certain number of hours each day, not a full day. It's not clear how these students would meet the requirement of having 11 or more days of suspension in a year. This could mean that the rule is unfair for these students, especially those with disabilities.

The ARTLC recommends all suspensions come with the right to appeal.

Multi-Tiered Systems of Support

An inclusive education system is one where every young person has the right to feel valued and participate fully in learning. This means adjusting teaching methods and classrooms so everyone can learn together equally. While Student Support Plans might help, they're not enough on their own.

That's why the ARTLC recommends using the Multi-Tiered Systems of Support (MTSS) model. MTSS is a way to provide different levels of help to students who need it, whether it's for academics, behaviour, or emotions.

⁴ Ibid. pp 165.

⁵ Ibid. pp 166.

MTSS focuses on including everyone in learning together. It gives support to all students, no matter their disability, and changes as students' needs change.

MTSS has three levels, or tiers. The first tier helps all students with teaching and support. It also helps find students who need more help. The second tier gives extra support to small groups of students. Then, in the third tier, students who need individual help are identified. But this tier is used only when really necessary, as it takes students out of regular class time.

Using MTSS means the school needs to do things differently for everyone, and give more help to those who need it most, based on their needs, not just because they belong to a specific group. It also means providing extra resources and changing how teachers teach.

MTSS helps students with vital skills like emotional regulation and problem solving and was a key recommendation of the South Australian inquiry into suspensions and exclusions.

ARTLC recommends the department works with experts, like QUT's Centre for Inclusive Education (C4IE), and rolls out the MTSS model in all Queensland schools.

Accountability and transparency

Greater accountability and transparency is needed to ensure the rates of suspensions and exclusions, particularly against students with disability, are lowered.

The ARTLC recommends the Bill is amended to include the requirement that the department provide an annual report to the Minister, which must be tabled within six days in the Legislative Assembly.

As soon as practicable after the end of each calendar year, the Director-General must prepare a report about the operation of this Act during the year.

- The report must include the following information for the calendar year:
 - Attendance rates (including explication of the formulae and data used for calculating these for each year)
 - Number of students enrolled
 - Number of students who received an SDA, AND number of incidents that occurred, disaggregated according to each SDA type:
 - Short Suspensions
 - Long Suspensions
 - Exclusions
 - Cancelled enrolments
- For each of the above categories, include data for the following sub-categories of students:
 - All students
 - Age of students
 - Indigenous students
 - Students living in out of home care
 - Indigenous students living in out of home care
 - Students with a disability under the NCCD
 - Indigenous students with a disability under the NCCD
 - Students with a disability under the NCCD living in out of home care

- Indigenous students with a disability under the NCCD living in out of home care
- By category of disability:
 - Physical Disability
 - Intellectual Disability
 - Autism Spectrum Disorder
 - Hearing/Vision Impairment
 - Speech-Language Impairment
- Students counted in the NCCD by adjustment category:
 - Physical
 - Cognitive
 - Sensory
 - Social/Emotional
- Reason or category of reason for SDA

In addition to an annual report to Parliament, the ARTLC is calling for the establishment of an independent board to oversee the implementation of all policies, rules, regulations and legislation overseeing SDAs to ensure they are working in the best interests of students. The board would then provide advice to government on areas for improvement and highlight areas that are working well.

Finally, the ARTLC recommends every Queensland school develops a yearly scorecard on SDAs, so they're accountable for their use of suspensions and exclusions. Parents looking at sending their kids to a school should be able to know how that school uses SDAs.

The ARTLC recommends that greater transparency and transparency is needed to ensure the number of SDAs are reduced and we keep students in the classroom.

Students rights

Under the Human Rights Act 2019 (Qld), the Department of Education has a legal obligation to uphold every child's right to access a primary and secondary education appropriate to their needs. This is in addition to the obligation to protect other human rights also engaged through the use of SDAs, such as the right to equality and recognition before the law and the right to protection from torture and cruel, inhuman or degrading treatment.

Section 12 of the Human Rights Act clarifies that these rights are in addition to rights and freedoms included in other laws, including common law, Commonwealth laws and international laws and treaties. For example, the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD) which are both relevant to the Department's obligations under the HRA and therefore its decision making regarding the use of SDAs.

The use of SDAs in situations where alternative, less restrictive and more effective behaviour management strategies are available is arguably in breach of Queensland's various human rights obligations. Concerningly, data obtained via Right to Information requests shows a disproportionate use of SDAs among certain groups of students. The data suggests limitations on this right that are neither reasonable nor demonstrably justifiable and which therefore raise significant human rights questions.

It is clear that more needs to be done to ensure that powers enshrined by the Education (General Provisions) Act 2006 are exercised in a manner that upholds a child's human right to an inclusive education. While the Department's inclusive education policy states its intention to work towards a more inclusive education system that means students can access and fully participate in learning alongside their similar aged peers, it is apparent that current legislation and policy is insufficient to ensure that every student is able to access an education on an equal basis with others. Despite the welcome amendments in Clause 18 of the Bill, we believe the Bill should be firmly grounded in a child's human right to an inclusive education.

We therefore recommend the Bill be amended to include specific reference to a child's human right to an inclusive education.

Conclusion

The ARTLC appreciates the opportunity to make a submission on the Education (General Provisions) and Other Legislation Amendment Bill 2024. The Bill provides a timely opportunity to make the necessary changes to SDAs policy to enshrine the right to learn into law.

Currently, students with disability are disproportionately targeted by SDAs. Suspensions and exclusions for these students simply don't work because what they need is greater support, not punishment.

That is why the ARTLC recommends:

- Suspensions and exclusions as a last resort
- Appeal rights for all suspensions
- Implementation of Multi-Tiered Systems of Support
- Greater transparency and accountability
- The inclusion of student rights

The current system is setting up disabled students for lives where they are not able to join in with the rest of the community and where people aren't able to benefit from the skills and talents of people with disability.

Inclusion benefits everyone by creating schools that better reflect and help equip all young people with the skills they need to navigate the real world we live in.

That's why it's so important all Queensland children are given the right to learn.

Submission endorsed by:



PeakCare
Queensland Inc.



ATSILS
Aboriginal and
Torres Strait Islander
Legal Service (Qld) Ltd



youth affairs network qld



Queensland
Advocacy
for Inclusion



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