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25th November, 2018



Human Rights Bill 2018

Legal Affairs & Community Safety Committee

By email: lacsc@parliament.qld.gov.au

Dear Committee Members,

Thank you for the opportunity for Queenslanders to offer comment and suggestions to the draft Bill. I would like to commend the Queensland Government for taking the initiative and developing what could be the best legislation in the nation in protecting the human rights of citizens. There are many fine principles to this work and I am aware of the length of consultations and thought that has been given to this draft. I am particularly grateful to the Attorney General for her commitment to a well-constructed Bill.

I am a parent of a young woman with intellectual impairment. I have been involved in disability advocacy mostly in a voluntary position with a key focus on inclusive education for about 20 years. This voluntary role enabled me to speak with and meet with many parents of students with disability over more than two decades. I now work in disability advocacy.

It is a great relief to most families who have children with disability to see the words “right to education” and to know that this is no longer at “the discretion of the Minister”. However, the lack of the words that ensure inclusive education, is deeply disappointing. The right to education is undermined by the wording “appropriate to the child’s needs” – perhaps unintentional but nevertheless a demeaning phrase that implies that if a child has support needs, their right to be educated with peers in mainstream school classrooms is effectively revoked. Segregation is the strongest bastion in our educational facilities yet thankfully, this is not reflective of our communities.

In the mid 1990’s a number of cases in the Anti-Discrimination Tribunal were testing the once inclusive education policies that proved to be mere rhetoric. My daughter, Lindsey O’Flynn was suspended pending exclusion from a mainstream school merely because the school and the Queensland Teachers’ Union objected to her enrolment. She had done no harm to anyone or behaved inappropriately. As she was to be excluded and the only option open to her at the time was a special school, Lindsey, and I, lodged a complaint and after a conciliation attempt was subverted, we proceeded to full hearing.

The outcome of that case was that the school and the Minister was found to have discriminated against my daughter, yet, as this was the first ‘test’ case, the Tribunal member decided that it was admissible on the grounds of “unjustifiable hardship” This dreaded clause has been used to exclude, sideline, marginalize and ‘make other” of students with disability.

In Lindsey’s case, the hardship was the presence of a teacher aide in the classroom and the twice daily visits to the toilet during class-time, and that Lindsey (who had just turned 7 at the time of her suspension) sometimes sang songs about her dog. In another case, even though the family paid for an aide for their daughter, \$4,000 was considered unjustifiable hardship for a private school.

In the next couple of years following those early cases, the proliferation of special education units, and the coding of schools for “disability types” and the “placement policy” was a dreaded experience that all but ended the inclusion of students with disability in mainstream classes.

That ‘get-out’ clause ‘unjustifiable hardship’, and the terms “appropriate to the child’s needs” will give rise to further suspensions, exclusions, restrictions and the use of cruel, inhuman and degrading treatment and withdrawal of students with disability. It will signal to all teachers, students, families and P & C’s that students with disability are only at best concessional students, don’t belong, and are second class. This will be the start of a pathway to a harshly isolating existence in adulthood.

Language is important as it conveys meaning to all of communities, forges beliefs and values in everyone and is instilled for generations when it is written into laws. If there is a genuine pledge to human rights then the Bill must strongly convey commitment to human rights at the very beginning – in education that is inclusive, accessible and equitable for everyone.

I wholeheartedly urge that the Committee amend the Bill to state:

everyone has a right to inclusive, accessible and equitable education, including the supports required in primary, secondary and tertiary education.

I recommend that the Committee redraft the Bill to:

remove any use of the term “unjustifiable hardship” from any other related legislation and that it not be used in any regard to students with disability.

I consider how well my daughter was achieving in school despite the lack of expectations of or for her, in the school that rejected her, but also in the special education unit that she eventually attended. The teachers that believed in her were ostracized and ‘managed’ away from the situation and their efforts were sabotaged. The second rate education that she received was a time-filler for the teachers, and reinforced a learned dependency on teacher aides rather than the sense of being a member of the class.

Whatever experience a child with disability has in school is an imprint that is only fortified in adulthood. It is important that those experiences are inclusive, positive,

and that every child feels valued, wanted, welcomed in schools with their neighbours, peers and friends.

Education is the foundation for the rest of life. Without good educational outcomes, far too many students with disability are without the skills for employment, yet they can learn them. Far too many are unknown outside of segregated settings and are channels into segregated adulthood – living in group homes, working in sheltered workshops, face hardships, subject to violence, have poor health that is associated with poverty, and can become homeless at the whim of a service provider landlord.

The right to ***Inclusive Accessible Equitable Education*** can change lives.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Michelle O'Flynn". The signature is written in a cursive, flowing style.

Michelle O'Flynn