



Submission
Parliament of Queensland
Human Rights Bill 2018 – Right to Education

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Introduction

1. The Student Engagement, Learning and Behaviour (SELB) Research Group is a network of more than 30 academics and research students in the Faculty of Education, Queensland University of Technology (QUT). SELB members specialise in four strands of research relating to children and young people: Children's Rights, Engaged Learners, Inclusive Education, and School Behaviour.
2. SELB members are experts in the impacts of government policy and educational practice on inclusion in and exclusion from education, particularly in relation to vulnerable groups: students with a disability, children from disadvantaged backgrounds, children in out of home care, students from refugee backgrounds, and Indigenous students.
3. SELB members congratulate the Queensland Government for introducing the *Human Rights Bill 2018* (the Bill) and we are grateful for the opportunity to make this submission.
4. Our submission focuses on the wording of Section 36 of the Bill: Right to Education.
5. The right to education is protected through numerous international declarations and treaties, including Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) on which Section 36 of the Bill is modelled.
6. Our concern is that the current wording of the right to education in the proposed Bill does not adequately reflect the intent of two key Conventions: (i) Convention on the Rights of the Child (CRC), and (ii) Convention on the Rights of Persons with Disabilities (CRPD).
7. Each of these Conventions explicitly recognises the importance of relevant and related factors that are necessary for the realisation of the right to education for vulnerable groups, including students with a disability.
8. It is also critical that the wording of the Bill reflect national anti-discrimination legislation as per the 1994 Disability Discrimination Act (DDA) and the Standards for Education 2005 (DSE).
9. It is our expert view that the proposed wording of Section 36 may inadvertently undermine the right of vulnerable groups to education, especially students with a disability. This outcome may contribute to the continuation of human rights violations through exclusion and segregation of students with a disability.

Specific concerns

10. The specific wording at issue is Section 36(1) "education appropriate to the child's needs" and Section 36(2) "based on the person's abilities". The term "access" in both clauses is problematic, and the reference to vocational, as opposed to further education and training, is perplexing.
11. First, we recognise that the reference to "education appropriate to the child's needs" in Section 36(1) may be a form of positive discrimination aimed at securing the necessary support for students with a disability to realise their human right to an education.
12. However, the current wording appears dangerously unaware of the historical denial of quality education to students with disabilities, leading to inequity in educational opportunity through the provision of severely deficient learning opportunities in the belief that students with disabilities cannot profit from age-appropriate academic content.
13. There still exist today many Australian students with intellectual disability who are provided only with limited "life skills" curricula because this is considered "appropriate to the child's needs". We are concerned that current wording in Section 36(1) risks reinforcing this latent view.
14. Second, it is not clear why Section 36(2) refers only to "vocational education and training" and not *further* education and training. While we recognise that this wording may reflect the competitive entry status of university higher education, specific reference only to vocational education and training limits options and does not adequately reflect the diversity of contemporary post-school educational offerings. Nor does it recognise that all education providers, including universities, are obligated to make reasonable adjustments under the DDA and DSE.
15. Third, the reference to "based on the person's abilities" in Section 36(2), acts as a further limiter and has direct and distinctly negative implications for students with a disability. It is important to note that people with disability can succeed in education if provided with reasonable adjustments to curriculum, pedagogy and assessment, as per the DDA and DSE.
16. It is for this reason that the use of the singular term "access" is problematic. Experts in inclusive education have long twinned "access" with "participation". This is because access to education is often interpreted as mere enrolment or physical presence, however, this alone does not enable participation in a program of instruction.
17. Finally, the Queensland Department of Education has recently published a new Inclusive Education policy that explicitly draws on the language of the CRPD. It is critical that the language in the proposed QLD Bill of Rights aligns with and provides support to the Queensland Government's own policy.

Recommendation

18. SELB members recommend that Section 36 of the Bill be revised to reflect the intent of relevant international Conventions and national legislation by referring to key terms, including discrimination (DDA), equality of opportunity (CRC), accessible (ICESCR), and inclusive (CRPD):
 36. *Right to education*
 - (1) *Every person has the right to education without discrimination and on the basis of equality of opportunity.*
 - (2) *To realise this right, every person has the right to access and participate in quality early childhood, primary and secondary school education, and further education and training that is accessible and inclusive of all.*
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