

Submission  
No 37

**INQUIRY INTO CHILDREN AND YOUNG PEOPLE WITH  
DISABILITY IN NEW SOUTH WALES EDUCATIONAL  
SETTINGS**

**Organisation:** The NSW Special Education Principals Association

**Date Received:** 29 February 2024

---



As the president of the NSW Special Education Principals Association SEPLA, I Matthew Johnson, hereby provide our response to the terms of reference for the inquiry by Portfolio Committee No. 3 – Education.

**Introduction:**

SEPLA represents and provides support to all leaders working in special education in NSW public schools. SEPLA is a member of the Australian Special Education Principals Association (ASEPA) and has two Schools for Specific Purposes (SSPs) principal representatives on the ASEPA National Council.

Membership of SEPLA is available to all principals of SSPs, of which there are currently approximately 117, and other special education leaders in schools and offices. There are approximately 420 current members of SEPLA. SEPLA is recognised as a Tier 1 Stakeholder of the Department.

The NSW Special Education Principals Association (SEPLA) was established and evolved as a direct commitment of our principals and leaders who work in special education to the well-being and education of children and young people with disabilities in New South Wales.

SEPLA is representative of principals and leaders, who primarily work in special schools (SSPs) and lead support units and classes in mainstream primary and secondary schools.

## **Response to the Terms of Reference:**

### ***(a) The experiences of children and young people within educational settings and measures to better support students with disability:***

The following response will be based on two key elements:

1. Emphasising the importance of creating inclusive environments where children with disabilities can fully participate in educational activities.
2. Advocacy for increased training and professional development for teachers and staff to better support students with disabilities.

Expanding on the importance of creating inclusive environments and advocating for increased training and professional development for teachers and staff to better support students with disabilities:

#### **1. Creating Inclusive Environments:**

##### a. Promoting a Culture of Inclusion:

It is essential to note that our specialist schools and settings are inclusive. Some advocates of full inclusion suggest that our specialist schools are 'segregated', strangely, these same advocates do not seem to see faith-based schools, private schools, single sex schools, selective high schools, or gifted and talented programs as segregated?

Our special school services provide highly personalised education in our schools and are not institutions, as labelled by some. Inclusion isn't a place; it is the best program tailored to the unique needs of the child or young person in the most appropriate environment for delivery and success.

Inclusive education is not just about physical accessibility but also about fostering a culture of acceptance, respect, and belonging. Creating a welcoming and inclusive atmosphere benefits all students, not just those with disabilities, by promoting diversity and empathy among peers.

##### b. Individualized Education Plans (IEPs):

It is important to stress the significance of IEPs as a tool to tailor education to each student's unique needs. We need to encourage the adoption and implementation of IEPs as a standard practice to ensure personalised support for students with disabilities across the system.

c. Collaboration with Families:

The importance of involving families in the educational process is vital. The system needs to encourage open communication between schools and parents or guardians to ensure that students' needs are understood and addressed both at home and in the school environment.

d. Universal Design for Learning (UDL):

The incorporation of UDL principles into curriculum development, teaching methods, and classroom resources. UDL can ensure that materials and instruction are accessible to a diverse range of learners, including those with disabilities within mainstream schools.

e. Peer Support Programs:

We wish to highlight the benefits of peer support programs, where students without disabilities can assist their peers who require additional support. These programs promote social inclusion and reduce isolation.

## **2. Advocating for Increased Training and Professional Development:**

a. Comprehensive Training Programs: SEPLA advocates for comprehensive and ongoing training programs for all educators and support staff, including teachers, teaching assistants, and administrative personnel. These programs should cover various aspects of special education, disability awareness, and inclusive teaching practices.

b. Incorporating Special Education in Teacher Preparation:

Initial teacher preparation programs need to include coursework and practical experiences related to special education and include experience in the full range of specialist schools, settings, and classes. This ensures that future educators are well-equipped to support students with disabilities from the outset of their careers.

- c. Differentiated Instruction Strategies: Promote the use of differentiated instruction strategies in classrooms, which help teachers adapt their teaching methods to meet the diverse needs of students, including those with disabilities.
- d. Professional Learning Communities (PLCs): SEPLA encourages the establishment of PLCs focused on special education, where educators can collaborate, share best practices, and learn from one another. These communities can provide a supportive network for professional growth, especially for new career teachers.
- e. Mentorship Programs: SEPLA suggests the development of mentorship programs where experienced educators in special education, recently retired special educators and leaders can provide guidance and support to newer teachers. Mentorship has been proven to assist in bridging the gap between theory and practice.
- f. Regular Assessment and Feedback: The importance of ongoing assessment and feedback on educators' inclusive teaching practices is essential. Time needs to be given to schools to implement regular evaluations to identify areas for improvement and provide constructive feedback.
- g. Access to Resources: Educators must have access to up-to-date resources, instructional materials, and assistive technology that can aid in providing the best possible support to students with disabilities.

Expanding on these suggestions can provide a more comprehensive view of the strategies and actions needed to create inclusive educational environments and ensure that educators are well-prepared to support students with disabilities effectively.

***(b) The barriers to safe, quality, and inclusive education for children with disability in schools, early childhood education services, and other educational settings:***

There are two key themes to ensure safe, high quality and inclusive education, but what needs to be acknowledged firstly is that NSW Schools for Specific Purposes

(SSP's) are highly inclusive, as are all other specialist schools and support classes across Australia.

The place of special schools in society has split opinion for years, highlighted by the fact the recent Disability Royal Commission commissioners themselves disagreed in the final report. Only three of the six commissioners, including the two who live with disability, recommended phasing special schools out.

"I still haven't met a parent ... who chose a special school," Rhonda Galbally, one of the commissioners with disability, told the ABC 7.30 report. Surely, to make the claim that special schools should be closed, without even attempting to contact one of the thousands of parents who choose special schools, is deeply concerning.

What many of those who argue against special schools fail to realise, is that every other parent in Australia has a choice regarding their child's education. Why then would any reasonable person wish to remove that choice for parents of student with complex needs and disability? Surely these parents need the most choice, and certainly not a one-size-fits all educational provision. The ideal that somehow a student with extremely complex needs can have their needs met in an 'inclusive' classroom of 30 other students, with an already overburdened teacher with no specialist training, is simply irrational.

The Royal Commission clearly identified that students with disability were failing in mainstream settings, but nonetheless, three commissioners decided that this is the very setting where they must be placed, and to then recommend the removal of the small class sizes, individualised education plans, specialist teachers and support staff that students now access in special schools and programs.

Our special schools cater for only the most complex of needs as most students (over 98%) with disability are already in mainstream classrooms. The reason why these students are in mainstream is quite simple. Whilst they may have a disability, they can access a regular classroom with accommodations and adjustments. The concept of full inclusion seems to be a solution trying to find a problem. Ideologically full inclusion is a great ideal, but to suggest that a one-size-fits all model somehow provides greater individualised supports, access to therapy, toileting, feeding for our students with the most complex of needs is false. High quality educational provision,

just like health care, starts with the individual and their specific needs, it does not start with ideology, which is a barrier in and of itself.

There are benefits for all children and young people if students with disability are provided with adequate levels of support. There are examples of positive outcomes of inclusive practice, such as promoting empathy, diversity, and a sense of belonging for all students, but to suggest that the only place that inclusive practices and inclusion can occur is in a mainstream setting is clearly false. SEPLA argues that the provision of special school education be sustained in order to ensure quality education for all children, inclusive of students with disabilities, in keeping with the UN Rights of the Child in providing every child with the best life that they can achieve (Article 3) through making the rights available to all children (Article 4) and to “ respect the rights and responsibilities of families to guide their children...” (Article 5), and article 26 of the Universal Declaration of Human Rights. Paragraph two states that that the content of education must be directed to the full development of the human personality and paragraph three confirms that parents have the right to choose the kind of education which their children receive.

***(c) The specific needs of children and young people with disability in regional, rural, and remote schools, early childhood education services, and other educational settings.***

There are unique challenges faced by these students, including limited resources and access to specialists. SEPLA advocates for targeted funding and support for schools in rural and remote areas to ensure equitable access to quality specialist education and therapeutic services.

There is a negative impact on children and young people with disability and their families associated with inadequate levels of support, and the consequences of inadequate support, such as hindered educational progress and increased stress for families. Many families must leave their country or community to travel or live in larger centres to gain the support services and appropriate specialists for their child. This disconnects families and communities at the very time that they need that connection and support most. There is a desperate for increased whole of government funding and resources to address these shortcomings across ministerial portfolios.

***(f) The social, economic, and personal benefits of improving outcomes for students with disability at school and in further education and employment.***

There are long-term advantages of providing quality education for students with disabilities, including increased employability and reduced dependence on social services. There is also potential for a more inclusive and diverse workforce in the future. Our most complex students with multiple disabilities need access to supported work environments to be able to participate on the same basis as their peers.

One fact that needs to be appreciated is that the students who are enrolled in special schools are those with only the most profound, complex, and often multiple disabilities. The majority are non-verbal. These students unfortunately will never be able to access the employment opportunities of students with mild or no disability. Most students who can and could access equitable employment are those attending mainstream classes. This is where the work needs to be done.

From our viewpoint there are numerous benefits to improving outcomes for students with disabilities at school and in further education and employment. These benefits are interconnected, influencing social, economic, and personal aspects of life.

#### Social Benefits

1. **Inclusivity and Diversity:** An inclusive education system that supports students with disabilities fosters a culture of diversity and acceptance. It prepares all students for a diverse society.
2. **Reduction of Stigma:** Effective support can help reduce the stigma associated with disability by showcasing the capabilities and achievements of individuals with disabilities.
3. **Community Engagement:** Students with disabilities who are actively involved in education and employment can participate more fully in community life, leading to stronger community bonds.
4. **Role Modeling:** Successful individuals with disabilities can act as role models, inspiring others with disabilities and changing societal perceptions.



## Economic Benefits

1. **Workforce Participation:** Improving educational outcomes increases the likelihood that individuals with disabilities will enter and contribute to the workforce. This includes the need to fund and adequately resource supported post school workplaces.
2. **Economic Growth:** The increased employment of people with disabilities contributes to economic growth by expanding the labour market and consumer base.
3. **Reduced Dependency on Social Services:** With gainful employment, individuals with disabilities may rely less on government assistance programs, leading to potential cost savings for society.
4. **Innovation:** Diversity in the workforce, including people with disabilities, can drive innovation as different perspectives lead to new ideas and solutions.

## Personal Benefits

1. **Self-Efficacy:** Achieving educational and employment goals can enhance the self-efficacy and confidence of individuals with disabilities, but our students also benefit from being and working with their peers and not being placed in a work environment where they are the only person with a disability, or worse, to meet an external inclusion target or to make someone else feel better.
2. **Financial Independence:** Employment provides financial benefits, increasing independence and the ability to afford better healthcare, housing, and quality of life. There is a need to dramatically review supported workplaces and post school options for students with disability. The Royal Commissioners pointed to the extremely low pay offered to people with disability in supported workplaces. As the individuals' NDIS package is affected if they earn too much. This must be remedied.
3. **Skill Development:**

Education and employment provide opportunities for lifelong learning and skill development, which are valuable for personal growth.

4. Social Networks: Being part of an educational institution or workforce helps in building social networks that are important for personal and professional development.

#### Long-Term Impact

Improving educational and employment outcomes for students with disabilities has a compounding effect over time, leading to a more inclusive and equitable society. Long-term, these improvements can help break the cycle of poverty that disproportionately affects individuals with disabilities and can lead to more significant contributions to cultural, social, and political life.

For a disability advocacy group, these benefits highlight the importance of policies, practices, and supports that ensure students with disabilities have equal access to education and employment opportunities. It underscores the need for ongoing advocacy, research, and collaboration between the education sector, employers, government, and the community to create a more inclusive society for all.

***(g) The experiences of teachers, early childhood educators, learning support staff, and others with a role in educating children with disability and measures to adequately resource and empower those educators:***

- Better training and professional development opportunities for educators.
- The importance of reducing teacher-to-student ratios and increasing support staff to address the diverse needs of students with disabilities.

Addressing the experiences of educators and support staff who play a crucial role in educating children with disabilities involves a multifaceted approach. There are several measures that can be taken to adequately resource and empower these educators:

#### Professional Development

1. Specialized Training: Offer comprehensive training programs for educators on special education needs, inclusive teaching strategies, and classroom accommodations.

2. Ongoing Education: Ensure access to continuous professional development opportunities to keep up with the latest research and effective practices in special education.

#### Support Structures

1. Inclusion Specialists: Hire inclusion specialists who can provide on-site support and guidance to educators in adapting curricula and teaching methods to meet the needs of all students.
2. Collaborative Teams: Create multidisciplinary teams including psychologists, speech and language therapists, and occupational therapists to support educators in addressing the diverse needs of students.

#### Adequate Resources

1. Classroom Resources: Supply classrooms with necessary materials and technologies that aid in the education of children with disabilities, such as assistive technology devices.
2. Reasonable Class Sizes: Ensure that class sizes are manageable, allowing educators to give adequate attention to students with disabilities.

#### Financial Support

1. Funding for Special Education: Increase funding specifically earmarked for special education resources, support staff, and training.
2. Grants and Scholarships: Provide grants and scholarships for educators pursuing qualifications in special education.

#### Emotional and Well-being Support

1. Emotional Support Programs: Implement programs that offer emotional support to educators, recognizing the emotional labor involved in special education.
2. Peer Support Networks: Establish networks where educators can share experiences, strategies, and provide mutual support.

#### Evaluation and Feedback

1. Regular Assessments: Conduct regular assessments to identify areas of need among educators and provide targeted support.
2. Feedback Mechanisms: Create avenues for educators to provide feedback on their experiences and needs, which can inform policy and practice.

## Partnerships

1. Community and Parental Engagement: Foster partnerships with parents and community organizations to create a supportive network for educators.
2. Professional Partnerships: Encourage collaborations with universities and educational experts to bring in fresh perspectives and expertise.

## Recognition and Career Progression

1. Recognition Programs: Acknowledge and reward the contributions and successes of educators working with children with disabilities.
2. Career Advancement: Offer clear pathways for career advancement in special education to motivate and retain talented educators. Establish additional lead roles for School Learning Support Officers in schools across the system.

By implementing such measures, educational systems can create environments where educators are well-equipped, supported, and motivated to deliver high-quality education to children with disabilities, ultimately leading to better educational outcomes for these students.

### ***(h) The resourcing available to educational settings and educators, including infrastructure, to support the needs of children and young people with disability in New South Wales:***

- The current inadequacies in funding and infrastructure that hinder the provision of inclusive education.
- The need for increased funding and the development of accessible infrastructure.

Most NSW special schools were never purpose built; many were old sites that had outlived their use as primary schools. There are no specialised rooms, such as therapy, break-out rooms and in many cases, there are no toilet or change facilities accessible for students within or near their classroom. This is simply unacceptable and has been the case for many years.

Special school facilities do not match their requirements for staff, let alone students. For example, the Departments' Asset Management Unit (School Infrastructure NSW), when looking at car parking for a special school, only provide space for the number of permanent teachers, ignoring that 50% of our staff are school learning support and

other administrative staff. This is the same when staffrooms are designed. In one school, even though the school relented to fully fund the project themselves, it took 4 years to have WiFi installed through SINSW.

In Queensland, \$128.4 million will be invested in renewal projects at just 6 special schools. There needs to be a significant investment in new special schools and the immediate refurbishment of others. It is unacceptable, that the students with the most need are the ones who have to wait or experience an education in an unsafe or run-down school that simply can't meet their or the schools' needs. Many other states are facing these same ageing facilities with Melton School in Victoria is being refurbished with a \$9.656 million upgrade and more in southern Queensland, South Australian, Tasmania and Western Australia.

Our students with the most complex needs and disabilities need and deserve, purpose built, state-of-the-art 21<sup>st</sup> century schools, not hand-me-downs from the 60's.

***(i) The measures necessary to ensure the learning environment is safe and inclusive for all students, teachers, and school support staff:***

- The Australian Catholic University, annual principal health and wellbeing survey results.
- Creating inclusive educational settings.

There is an urgent need to increase the staffing, facilities and resourcing of special schools to attempt to create a safe and inclusive environment for students and staff. The Australian Catholic University, annual principal health and wellbeing survey quotes three principals as examples in their findings:

*"Since March this year I have been on Work Cover as a result of extreme burnout and psychological injuries I have sustained at work over the last five years" – Female, NSW*

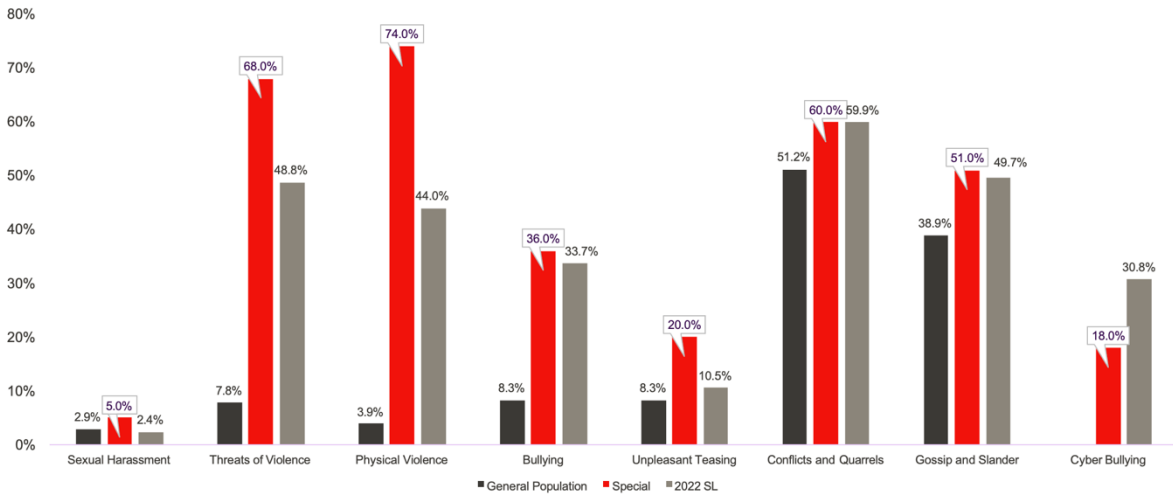
*"I have been considering retirement in the near future. I believe the quality of my lifestyle and my health has been significantly impacted by the significant workload throughout COVID and beyond". – Female, VIC*

*“Principal’s jobs are becoming increasingly more difficult. Expected compliance and bureaucracy are destroying schools. The curriculum is being pushed as the holy grail with no consideration of pedagogy and engagement...Workload has become ridiculous for teachers”. – QLD*

2022 Australian School Leader Data



### Increasing Offensive Behaviours – Conversation around Physical Violence



The key recommendation from the survey in 2022 were:

- Fast-track review and elimination of low-value tasks, as advocated by the Productivity Commission.
- Introduce school leader wellbeing priorities within performance frameworks.
- Seek feedback as how best to support members.
- For individuals to actively seek support

As can be seen from this graph, this is not reflective of students being deliberately violent or aggressive to our special school leaders, nor is it due to special school principals and leaders lacking the skills or ability, it is quite simply, descriptive of the complex needs of the students we work passionately with and for every single day. Those who wish to close special schools and classes simply have no idea of what would happen to our students if they were just thrown into a class of 30 students in mainstream? If we are struggling with a 6 student per teacher ratio, how on Earth would a generalist teacher with 29 other students cope? Yet despite this, three commissioners, regardless of the fact that mainstream isn’t coping with the students

with disability they already have, think that one size fits all is the answer. In fact, some full inclusion advocates think that the only place inclusion can occur is in a mainstream school, this is patently false. Our special schools are actually the most inclusive, as we start with the child to meet their needs and provide individualised, health supports, education and coordinate therapeutic services. Our parents who choose our schools are extremely grateful that we are there.

**(k) The impact of policies regarding the use of restrictive practices:**

- Policy and oversight to prevent the inappropriate use of restrictive practices.
- Promote positive behaviour support and therapeutic approaches as alternatives.
- Ensure that school facilities and the educational environment is purpose built to meet the needs of complex learners.

Restrictive practices are and have always been a last resort in situations where self-harm and danger to others are concerned. The staff in our special schools are bound by multiple policies and legislation that protect and support the safety and wellbeing of students.

In New South Wales (NSW), there are specific legislative requirements that teachers must follow in relation to child protection and safety. These laws are designed to ensure that children are protected from harm and that their welfare is a primary consideration in the educational environment. Key legislation includes:

Children and Young Persons (Care and Protection) Act 1998

- Mandatory Reporting: Teachers are mandatory reporters under this Act. They are legally obliged to report any suspicion of risk of significant harm to children to the NSW Department of Communities and Justice (formerly known as the Department of Family and Community Services).
- Duty of Care: Teachers must ensure that their duty of care to protect children from harm is upheld in all school environments and activities.

Child Protection (Working with Children) Act 2012

- Working with Children Check: Teachers must have a valid Working with Children Check (WWCC), which involves a national criminal history check and review of findings of workplace misconduct.
- Prohibition of Certain Convicted Offenders: The Act makes it an offense for convicted offenders of certain serious crimes to work with children.

#### Education and Care Services National Law (NSW)

- National Quality Framework: This law applies to early childhood education and care services, setting out the National Quality Framework which includes standards for the safety, health, and well-being of children.
- Child Safe Environments: Teachers and educators must ensure that their services have policies and procedures in place for identifying and mitigating risks to children.

#### Ombudsman Act 1974

- Employment Screening: Teachers are subject to employment screening by the NSW Ombudsman, particularly if they are involved in child-related work.
- Investigations and Oversight: The Ombudsman can investigate actions taken by schools and teachers in relation to child protection matters.

#### Privacy and Personal Information Protection Act 1998

- Handling of Information: Teachers must ensure that personal information about children and families is handled in accordance with privacy laws.

#### Crimes Act 1900

- Criminal Offences: Certain actions or omissions in relation to the care and protection of children may constitute criminal offences.

#### Teacher Accreditation

- Standards and Conduct: Teachers in NSW must be accredited with the NSW Education Standards Authority (NESA) and comply with the Australian Professional Standards for Teachers, which includes maintaining student safety.



## Local School Policies

- Compliance with School Policies: Teachers must also adhere to specific child protection and safety policies set out by their individual school or educational institution, which may include specific procedures for reporting and responding to child protection concerns.

Teachers in NSW stay informed of any changes to legislation or policy regarding child protection, and regularly participate in professional development and annual mandatory training to ensure they understand their legal obligations and the best practices for keeping children safe. It is also important to note that these legislative requirements are complemented by codes of conduct, ethical guidelines, and professional standards designed to protect children and ensure their welfare in educational settings.

Restrictive practices, when used correctly and ethically, are measures intended to prevent harm to individuals with disabilities and those around them, including teachers. As mentioned previously, they are considered interventions of last resort and should be applied within a strict ethical and legal framework that prioritizes the rights and dignity of the individual.

## Prevention of Harm

- Immediate Response: In situations where a student is in imminent danger of harming themselves or others, a restrictive practice may be used to quickly de-escalate the situation.
- Behavioural Interventions: Certain restrictive practices can be part of a behavioural intervention plan to prevent a student from engaging in dangerous behaviours.

## Structured Environment

- Predictability: Some students with severe disabilities may find a structured and predictable environment, which may include restrictive elements, to be calming and thus safer.
- Consistency: Consistent use of agreed-upon, non-harmful restrictive practices can help students understand the boundaries and rules, contributing to a safer environment.

## Training and Education

- Specialised Training: Teachers and support staff are trained to apply restrictive practices in a way that is safe, respectful, and in line with individual care plans.
- De-escalation Techniques: Training often includes de-escalation techniques that precede any restrictive practices, ensuring they are used as infrequently as possible.

## Legal and Ethical Frameworks

- Regulatory Compliance: Restrictive practices are governed by laws and regulations that ensure they are used ethically and only when absolutely necessary.
- Rights-Based Approach: These practices should be grounded in a rights-based approach that ensures the dignity of the student is upheld.

## Monitoring and Review

- Oversight: The use of restrictive practices should be closely monitored and reviewed regularly to ensure they are applied appropriately.
- Accountability: There should be clear accountability mechanisms in place for the use of restrictive practices.

## Individual Support Plans

- Personalized Approaches: Restrictive practices should be tailored to the individual needs of the student and outlined in their personal support or education plan.
- Informed Consent: Whenever possible, informed consent should be obtained from the student or their guardian before implementing restrictive practices.

## Therapeutic Goals

- Non-Aversive Methods: Preference should always be given to non-aversive methods that promote positive behaviour support.
- Therapeutic Outcomes: The ultimate goal should be therapeutic and educational outcomes, not control or convenience.

It is important to note that the use of restrictive practices is subject to intense scrutiny and debate. Advocacy groups, educators, and policymakers are increasingly looking for alternative, positive behaviour support strategies that can reduce or eliminate the need for restrictive practices. The focus is on creating an environment that addresses the underlying needs and triggers for challenging behaviour, rather than relying on restriction or coercion.

In this regard consideration should be given to the environmental changes that can be made to prevent the occurrence of challenging behaviour and to reduce the risk of injury to the person or others should the person present with challenging behaviour. To simply remove internal fencing or break-out areas in schools will increase, not decrease, the restrictive and invasive interventions<sup>1</sup> required by staff to keep other students and personnel safe<sup>2</sup>.

Staff have been identified as critical mediators in the provision of effective and appropriate support (LaVigna et al., 1994<sup>3</sup>), and in the decision to implement restrictive practices. High staff workloads (as evidenced, for example, in disproportionate staff–client ratios) and their mental health (e.g., levels of anxiety, depression, and burnout) are related to the likelihood of restrictive practices being employed.

The lack of purpose built facilities, as stated previously, for students with complex needs and disability in New South Wales is unacceptable, and an indictment on the lack of progress which has failed to address known concerns for decades, despite numerous parliamentary inquiries and reports.

The fact that some new and refurbished special schools are having their break-out spaces and internal safe spaces removed, is a clear example of the cure being worse than the disease and will dramatically increase the levels of physical restraint rather than reduce it.

---

<sup>1</sup> Allen D (2001) Training Carers in Physical Interventions: Research Towards Evidence Based Practice. Kidderminster. U.K. BILD.

<sup>2</sup> Allen D (2011) Reducing the use of restrictive practices with people who have intellectual disabilities. Kidderminster. U.K. BILD

<sup>3</sup> Outcomes of Staff Training in Positive Behaviour Support: A Systematic Review February 2013 Journal of Developmental and Physical Disabilities 25(1) DOI:10.1007/s10882-012-9327-8

Employing physical restraint may lead to injury (both physical and psychological) to staff, thus raising both clinical and legal issues. Several studies have found that injuries to staff and others decline as a result of restraint reduction (Lebel & Goldstein, 2005<sup>4</sup>; Singh Lancioni, Wahler, Winton, & Singh, 2008<sup>5</sup>). According to Wynn (2003<sup>6</sup>), staff can believe that restraint and seclusion make people calmer and do not cause aggression, anxiety, or injuries to staff or recipients of those restrictive practices. However, Wynn found that about 70 per cent of staff in his study had been assaulted by people in connection with use of restraint and seclusion. Staff should be made aware of this information to encourage the reduction of these restraint practices.

The NSW Ombudsman Inquiry into behaviour management in schools - August 2017<sup>7</sup> stated:

“The use of restrictive practices can have a significant and traumatic impact on the involved student, as well as on staff and other students. The starting point for any discussion about the use of restraint and seclusion should be that all efforts should be made to structure environments and provide supports so that the restrictive practices are not required.

Across government and non-government schools, there is a need to ensure that clear guidance is provided to staff and the school community about the use of time-out rooms, and to distinguish between seclusion and the use of safe spaces/voluntary withdrawal. Greater guidance is required on the use of restrictive practices, including seclusion and restraint. There is also a need for greater rigour in the actions that are required in response to critical events involving restrictive practices, including reporting and related monitoring arrangements.”

---

<sup>4</sup> Lebel, J., & Goldstein, R. (2005). The economic cost of using restraint and the value added by restraint reduction or elimination. *Psychiatric Services*, 56, 1109–1114.

<sup>5</sup> Mindfulness Approaches in Cognitive Behavior Therapy Published online by Cambridge University Press: 01 November 2008  
<https://www.cambridge.org/core/journals/behavioural-and-cognitive-psychotherapy/article/abs/mindfulness-approaches-in-cognitive-behavior-therapy/25333D0205CF82415D8DF52017138317>

<sup>6</sup> Blackburn, R. (2006). Physical interventions and autism: A service users' perspective. In S. Paley & J. Brooke (Eds.), *Good practice in physical interventions*. Kidderminster: BILD

<sup>7</sup> [https://www.ombo.nsw.gov.au/\\_data/assets/pdf\\_file/0018/47241/NSW-Ombudsman-Inquiry-into-behaviour-management-in-schools.pdf](https://www.ombo.nsw.gov.au/_data/assets/pdf_file/0018/47241/NSW-Ombudsman-Inquiry-into-behaviour-management-in-schools.pdf)

This report identifies the appropriate use of safe spaces, as well as the need for environments to be structured to provide supports so that the management of student behaviour does not in the first instance use restraint. Appropriately designed and regulated environments and safe spaces in practice, reduce the need for invasive responses by staff.

The New South Wales Auditor-General's Report Performance Audit "Supporting students with disability in NSW public schools - Department of Education (2016)"<sup>8</sup> Response 13 was 'Supported in principle' by the department, but stated the following:

"Students with disability have a diverse range of types and levels of learning need, and for this reason it is not practicable to report on students with a disability as a cohort at a state level. While the majority of students with disabilities whose learning is impacted disability are already included in state level reporting on educational achievement reflecting the personalised learning and support that they receive it is problematic to report on these students as a cohort due to the range of adjustments to learning programmes and outcomes to meet their individual needs, as required under the legislation."

It is clear from this 2016 response, that the department simply did not have the appropriate knowledge, understanding or even the most basic data regarding students requiring individualised supports, let alone information regarding what specific learning environments and environmental adjustments each individual student must receive under the requirements of the Disability Standards for Education (2005).<sup>9</sup> It is now 2021 and there has been limited growth in systems and data to inform decision making.

In addition to a systemic lack of data or individual consultation with students and parents to inform decision making, there exists other relevant legislation that includes work and health safety legislation, child protection legislation and state and

---

<sup>8</sup> [https://www.audit.nsw.gov.au/sites/default/files/pdf-downloads/2016\\_May\\_Report\\_Supporting\\_students\\_with\\_disability\\_in\\_NSW\\_public\\_schools.pdf](https://www.audit.nsw.gov.au/sites/default/files/pdf-downloads/2016_May_Report_Supporting_students_with_disability_in_NSW_public_schools.pdf)

<sup>9</sup> <https://www.dese.gov.au/disability-standards-education-2005>

federal privacy legislation<sup>10</sup> that offer rights and protections to students, their families, and staff in schools.

There is also a common law duty of care relating to the education of children with a disability, which makes the state of New South Wales, acting through the Department of Education, responsible for taking reasonable steps to protect students enrolled in government schools from risks that are reasonably foreseeable. This means that schools have to demonstrate that systems are in place to identify, eliminate and control risks.<sup>11</sup>

“All students and staff have the right to be treated fairly and with dignity in an environment free from disruption, intimidation, harassment and discrimination.”<sup>12</sup>

The Telethon Kids Institute, ‘Strengthening school and system capacity to implement effective interventions to support student behaviour and wellbeing in NSW public schools: An evidence review’,<sup>13</sup> page 20, Universal prevention interventions (primary prevention) states the following:

“Strategies supporting the whole-school community by building the social and emotional capacity of students, teachers and families and create a positive, engaging and safe school environment and ethos that supports positive behaviour, learning and wellbeing.

Universal interventions can be multi-component (e.g. address school policy, curriculum, culture, physical environment and partnerships with families) or single component (e.g. universal social and emotional learning curriculum delivered to all classrooms). To achieve this, all schools will maintain high standards of student behaviour.

---

<sup>10</sup> Submission 135, NSW Government, p 4. For example, the Work Health and Safety Act 2011, Work Health and Safety Regulation 2011 and Children and Young Persons (Care and Protection) Act 1998 as outlined in Submission 135, NSW Government, Appendix A, pp 46-47. 35 Submission 135, NSW Government, Appendix A, p 46.

<sup>11</sup> Submission 135, NSW Government, Appendix A, p 46.

<sup>12</sup> [https://education.nsw.gov.au/content/dam/main-education/policy-library/associated-documents/suspol\\_07.pdf](https://education.nsw.gov.au/content/dam/main-education/policy-library/associated-documents/suspol_07.pdf)

<sup>13</sup> <https://education.nsw.gov.au/content/dam/main-education/student-wellbeing/attendance-behaviour-and-engagement/media/documents/telethon-kids-institute-final-report.pdf>

As stated above, appropriate internal fencing and safe spaces can be viewed as universal, or primary intervention and environmental system to ensure the safety of students from different age groups and to provide appropriate spaces for students at different times. They let a school provide varied sensory and play spaces appropriate to individual needs. One size does not fit all and one single playground certainly does not provide the environmental accommodations and adjustments that students with disability may require.

“Effective school safety programs involve clear school-wide guidelines, involvement from students, parents, and teachers, and increased monitoring in non-classroom areas. School staff must be able to recognise different forms of bullying and be willing to step in when they observe a student being bullied.”<sup>14</sup>

The supports available in specialised settings, particularly SSPs, differ in structure from supports available in mainstream settings, but not in intent, with SSPs receiving ‘enhanced teacher staffing entitlements’ consisting of a teacher and school learning and support officer for each class.<sup>15</sup> These ratios assist in the day-to-day learning and support for students but are not adequate to eliminate all risk when supervising students in non-class environments. The ability to have multiple sensory and break-out areas are essential to the self-regulation and safety of some complex learners. While SSPs acknowledge that they ‘are well-resourced in that we have small classes and we have a teacher and an SLSO in every class’, the overarching concern regarding SSPs, is the inadequacy of these staffing levels or purpose built environments and schools to meet the higher support needs of the students enrolled in specialised settings.<sup>16</sup>

### **(I) The effectiveness and availability of early intervention programs:**

- The importance of early intervention in addressing developmental delays and disabilities.

---

<sup>14</sup> <https://education.nsw.gov.au/student-wellbeing/tell-them-from-me/accessing-and-using-tell-them-from-me-data/tell-them-from-me-measures/safety-at-school>

<sup>15</sup> Submission 135, NSW Government, p 13.

<sup>16</sup> Evidence, Ms Turner, 19 May 2017, p 30. See also, Submission 143, Australian Education Union New South Wales Teachers Federation Branch, p 19; Submission 325, Name suppressed, p 1.

- SEPLA advocates for increased funding and accessibility of early intervention services.

The NSW Government announced in 2024 that they would build 100 new public preschools co-located at public primary schools by 2027, including building preschools at new public primary schools. SEPLA recommends that NSW follows the Queensland Education Department in the establishment of Early Childhood Development Centres. An ECDP is a program the Queensland Government's Department of Education has provided for more than 40 years to support children with disability from birth to five years. ECDPs aim to support children's early learning and help develop valuable skills children need to be successful learners now and as they transition to school. There are 102 ECDPs based at state schools. Each specialist school in Queensland has one attached to them to support effective transition for children with disability and provide the vital early interventions required by this cohort.

Early intervention is critically important in addressing developmental delays and disabilities in children for several key reasons:

1. **Brain Plasticity:** Early childhood is a period of significant brain development. Early intervention takes advantage of the brain's plasticity during these formative years, which can lead to more effective progress in a child's development.
2. **Mitigating Long-Term Effects:** Intervening early can prevent or mitigate the long-term effects of developmental delays and disabilities, which might otherwise lead to more significant challenges in learning, behaviour, and health.
3. **Improving Developmental Trajectories:** Early intervention can alter developmental trajectories, helping children achieve milestones in communication, social skills, and cognitive abilities that are closer to those of their peers.
4. **Reducing the Need for Specialised Intervention Later:** By addressing issues early on, children may require less intensive support as they grow older, and they may be more likely to participate in mainstream educational settings.



5. **Supporting Families:** Early intervention supports not only the child but also the family. It educates and empowers families with strategies to support their child's development, promoting a nurturing and stimulating environment.
6. **Cost-Effectiveness:** Providing early intervention can be more cost-effective than addressing the consequences of not intervening later in life. Early supports can reduce the need for more extensive services and supports later on.
7. **Social Inclusion:** Children who receive early intervention services are better equipped to integrate into social settings with their peers, enhancing their social inclusion and reducing the likelihood of social isolation.
8. **Legal and Ethical Considerations:** In many regions, there are legal frameworks in place that recognize the rights of children with disabilities to receive early and appropriate interventions. This aligns with ethical standards for equitable access to education and healthcare.
9. **Promoting Independence:** Early intervention programs can help children develop the skills they need to be as independent as possible, which is beneficial for their self-esteem and overall quality of life.
10. **Educational Success:** Children who receive early intervention services are often better prepared for school, both academically and socially, which can lead to better educational outcomes.

Early intervention is crucial for maximizing the potential of children with developmental delays and disabilities, providing them with the best possible start in life and the foundation to thrive in the future.

***(m) Whether existing regulatory and oversight mechanisms are sufficient to protect and promote the rights of children and young people with disability, and protect those children and young people from abuse, neglect, and exploitation:***

This inquiry needs to assess the effectiveness of existing regulations and oversight mechanisms.

In New South Wales protecting the rights of children with disabilities requires a comprehensive approach that involves legislative, educational, social, and policy measures. SEPLA recommends improvements and additional safeguards:

1. Strengthened Legislation: Review and strengthen state legislation to ensure it aligns with international standards like the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and the Parental choice and the right to education, article 26 of the Universal Declaration of Human Rights

2. Enhanced Monitoring and Enforcement: Establish independent monitoring bodies with the power to investigate schools and other institutions to ensure they comply with child protection and disability rights laws.

3. Inclusive Education Framework: Develop a robust inclusive education framework that provides parental choice in the educational provision for their child and not promote an unworkable, one-size-fits all policy.

4. Increased Funding: Allocate additional government funding to provide resources necessary for the support of children with disabilities, including additional educational aids, technologies, and specialised support personnel to special schools.

5. Parent and Child Involvement: Ensure that the voices of children with disabilities and their families are central in decision-making processes related to their care and educational choice.

6. Professional Development: Mandate regular professional development for educators and staff on disability rights, inclusive education practices, and trauma-informed approaches to teaching.

7. Accessible Complaint Mechanisms: Create and publicise clear, accessible complaint mechanisms for students and parents to report discrimination or breaches of rights.

8. Cultural Change Programs: Implement school-wide programs to foster a culture of inclusion and combat stigma against children with disabilities.

9. Improved Transition Planning: Provide comprehensive transition planning for children moving between stages of education or into post-school options, ensuring that support continues seamlessly.

10. Specialised Support Services: Increase the availability of specialized support services, such as speech and occupational therapy, within the school system and preferably based in schools.

11. Data Collection and Research: Invest in research and data collection to better understand the needs of children with disabilities and track the effectiveness of programs and policies.

12. Peer Support and Mentoring: Encourage peer support and mentoring programs that include children with disabilities to promote social inclusion and provide role models.

13. Universal Design Principles: Adopt universal design principles in the construction of educational facilities and the development of educational materials.

14. Interagency Collaboration: Promote collaboration between education, health, and social services agencies to provide holistic support to children with disabilities.

By considering these recommendations, NSW can further protect the rights of children with disabilities, ensuring they have equal opportunities to participate in all aspects of life and reach their full potential.

***(n) Whether children and young people with disability should be included under the remit of the Ageing and Disability Commissioner:***

No.

Including children and young people with disabilities under the remit of an Ageing and Disability Commissioner raises several concerns that need to be carefully considered. These concerns often revolve around the adequacy and appropriateness of protections, the specificity of services, and the representation of young people's unique needs.

***(o) Developments since the 2017 Upper House inquiry into education of students with disability or special needs in New South Wales:***

Since the 2017 Upper House inquiry into the education of students with disabilities or special needs in New South Wales, there have been various recommendations and observations made, with some concerns about the consistency and effectiveness of the reforms suggested. The inquiry led to a series of recommendations aiming to formalise inclusive education, enhance monitoring and reporting, ensure adequate funding, revise disability criteria, collect detailed data, improve support structures, and better train staff. These recommendations were intended to align with the principles of inclusive education and the international human rights obligations that Australia has committed to, particularly under the UN Convention on the Rights of Persons with Disabilities.

However, there have been criticisms that the outcomes of the inquiry and the subsequent actions taken may not fully reflect a commitment to genuine inclusive education. For instance, concerns have been raised that the increase in support classes in mainstream schools and special school settings could lead to further educational segregation rather than true inclusivity. This is false, mainstream schools simply cannot meet the staffing levels, teacher to student ratios or specialised staff that are employed in special schools and settings. To suggest that moving from specialised and individualised support to a one-size-fits-all will deliver better outcomes for students with disability is delusional and simply lead to students failing to thrive, failing to get individualised support and actually increase school refusing, suspension and isolation.

Furthermore, despite several reforms and initiatives at the state and Commonwealth levels, there have been observations of minimal improvements in the actual educational experiences of students with disabilities. Issues like the overrepresentation of boys from low-socioeconomic backgrounds and Indigenous students in segregated settings, as well as high rates of absenteeism and drop-out, persist.

It is important to note that pragmatic inclusive education is not about a 'one-size-fits-all' approach but rather about ensuring that educational systems are flexible and

responsive to the diversity of students' needs. This goal aligns with the principles of the universal design for learning, which advocates for educational environments that accommodate all learners.

In conclusion, while there have been efforts and recommendations made following the 2017 inquiry, the journey towards 'fully inclusive' education remains confused as to what inclusion means.

Inclusion isn't a place. It is the program, the pedagogy and the services that a child needs, when they need it and where they need it. Not the ideological myth that a regular school, with a regular teacher, with regular student ratios can cater for all needs. They can't already.

***(p) Measures to implement the Disability Royal Commission's recommendations in relation to inclusive education:***

- SEPLA supports implementing the majority of the recommendations of the Disability Royal Commission, except for the closure of group homes, supported workplaces and special schools.

Australian Institute of Health and Welfare data shows 89 per cent of disabled students aged five to 18 attend mainstream schools and 12 per cent go to special schools. Phasing out special schools would cost billions of dollars, adversely affect disabled children and effectively remove choice.

The education of children with profound disabilities is specialised, often involving intensive manual care. As [health editor Natasha Robinson](#) wrote in The Australian, it is hard to see how mainstream schools, however well-intentioned or resourced, could accommodate the needs of children "who sometimes need constant airway management, require PEG feeding and nappy changing, and frequently experience medical emergencies such as seizures". It is the most vulnerable children who would miss out if special schools, staffed by dedicated skilled professionals with the expertise to teach them, closed. Such an unintended consequence could isolate and reduce the quality of life of children who benefit from special schools. The cost of re-establishing such schools, once closed, would be enormous. The states, which are responsible for running schools, should oppose the recommendation.

The extensive 12-volume, 5000-page Royal Commission report on Violence, Abuse, Neglect, and Exploitation of People with Disability has spurred calls for an end to practices deemed as 'segregation', including the discontinuation of special schools and group homes. It's essential to recognize that disabled Australians constitute a diverse community, not a monolithic entity. Implementing uniform solutions for education, employment, and housing won't cater to the varied needs of individuals and contradicts the essence of inclusion. Additionally, many individuals residing in group homes or attending special schools maintain connections with the broader community. While advocating for integration is important, it should be balanced with practical considerations rather than solely driven by ideological fervour to ensure beneficial outcomes.

The existing research on inclusion in education lacks consistency and reliability, highlighting the need for better quality research to provide accurate recommendations for policy and practice, specifically considering the Australian context and incorporating the perspectives of students with disabilities and their families. SEPLA agrees.

Analysis and Critique of the Advocacy Paper Towards Inclusive Education: A Necessary Process of Transformation Jennifer Stephenson<sup>1</sup> and Rahul Ganguly<sup>2</sup>  
Macquarie University, Australia, and Charles Sturt University, Australia Corresponding author. Email: [jennifer.stephenson@mq.edu.au](mailto:jennifer.stephenson@mq.edu.au)

#### **Abstract**

The increasing inclusion of students with disabilities in regular classes still leads to debate and many advocate for full inclusion of all students. Arguments for full inclusion are generally rights-based, but proponents also claim research supports the effectiveness of full inclusion over specialist provision for all students with disabilities. In this article, we analyse and critique the use of the research literature in an Australian advocacy paper as an example of the broad claims made concerning full inclusion. We examine the extent to which the sources used provide conclusive evidence about the merits of full inclusion. We find the advocacy paper relies heavily on opinion and non-peer-reviewed literature, with little use of quantitative research that compares outcomes for students in different settings. We suggest that policymakers should treat the conclusions drawn in this paper cautiously and give due consideration to the literature that is not supportive of full inclusion.

[https://researchoutput.csu.edu.au/files/189485284/analysis\\_and\\_critique\\_of\\_the\\_advocacy\\_paper\\_towards\\_inclusive\\_education\\_a\\_necessary\\_process\\_of\\_transformation.pdf](https://researchoutput.csu.edu.au/files/189485284/analysis_and_critique_of_the_advocacy_paper_towards_inclusive_education_a_necessary_process_of_transformation.pdf)

The Australian Special Education Principals Association (ASEPA), SEPLA's National Association commissioned research into parent voice of parents who have children attending special schools. Available for download here:

[https://www.asepa.edu.au/Muted\\_Voices.pdf](https://www.asepa.edu.au/Muted_Voices.pdf)

Conclusion:

In summary, special schools play a vital role in providing individualised education and support for our students with the most severe and complex needs. They offer a safe, inclusive environment conducive to academic, social, and personal development. Denying families, the choice of specialised education, contradicts principles of equity and could have far-reaching negative consequences. Therefore, it is crucial to prioritize the retention, resourcing and support of special schools and settings to ensure that all students receive the education they deserve and that parents have a choice in the educational provision they deem suitable for their child.

Matthew Johnson

- State President of the NSW Special Education Principals and Leaders Association (SEPLA)
- National President of the Australian Special Education Principals Association (ASEPA).
- The General Representative on the Executive of the International Confederation of Principals (ICP)
- Member of the Australian Teaching and School Leadership Institute (AITSL) School Leadership and Teaching Expert Standing Committee.
- Convenor of the Coalition of Australian Principals (CAP)
- Member of the National Advisory Council of the Australian Primary Principals Association (APPA).
- Member of the NSW Secondary Principals Council (SPC) (22 years' service as a principal in specialist settings)
- Member of the NSW Primary Principals Association (NSWPPA)