

CHAPTER 2

Difficulties with accessing education

'I had no idea schools could decline a child with a disability in mainstream school placement'.¹

Introduction

2.1 Throughout the course of this inquiry, the committee heard from submitters and witnesses about the many challenges facing students with disability and their families in adequately accessing education. The committee also received evidence that difficulties in accessing education leads to disenfranchisement later in life when a person seeks to participate in higher education, training or employment.

2.2 Australia has obligations, under the *United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)*, to ensure that inclusive education is available to all children, regardless of their level of ability. The UNCRPD stipulates that:

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to:
 - a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
 - b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
 - c) Enabling persons with disabilities to participate effectively in a free society.
2. In realizing this right, States Parties shall ensure that:
 - a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
 - b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
 - c) Reasonable accommodation of the individual's requirements is provided;

1 Mrs Georgia Talbot, *Committee Hansard*, 18 September 2015, p. 1.

- d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
- e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.²

2.3 Thus it is clear that Australia has obligations to ensure inclusive education is available to all children. Yet, in spite of this unequivocal obligation, the committee heard from numerous submitters and witnesses that access to education for students with disabilities proved to be difficult, time-consuming and required substantial efforts and energy on the part of parents and carers.

2.4 Australian Lawyers for Human Rights (ALHR), a national network of over 2600 human rights lawyers, academics and judicial officers, argued that:

... schools or government policies which fail to provide equal and inclusive educational opportunities to children with disabilities are in breach of the United Nations Convention for the Rights of Persons with Disabilities.³

2.5 People with Disability Australia argued that Article 24 of the UNCRPD 'must be the basis of our educational framework':

Our educational framework does need to be based on the rights of the child: the rights of the child to receive education; the rights of the child to participate in their communities; the rights of people with disability to be free from violence when they are in whatever setting they might be, including schools; the rights of children and people with disability to make complaints about their experiences; their rights to participate politically; and their rights to be involved economically in the community as children, young people and as adults.⁴

2.6 Ms Stephanie Gotlib, Chief Executive Officer of the major advocacy group Children with Disability Australia (CDA), commented:

CDA does not deny that there are good pockets of education practice, but it is just not right that this is the exception rather than the norm. I do not think I know of one child with a disability, including my own, that has not had to have significant compromises in their education experiences. To have any chance of accessing your basic education rights in Australia, students with disability must rely on fierce advocacy—usually by families and the stars aligning. Usually, the magical combination is also dependent on a strong school leader who is unwavering in their commitment that all students should access an education. The chance of accessing a quality education

2 United Nations Convention on the Rights of Person with Disabilities, Article 24, <http://www.un.org/disabilities/convention/conventionfull.shtml>, accessed 29 October 2015.

3 Australian Lawyers for Human Rights, *Submission 134*, p. 1.

4 Ms Ngila Bevan, People with Disability Australia, *Committee Hansard*, 18 September 2015, p.10.

when you are a student with a disability is likened to that of winning the lottery.⁵

2.7 ALHR expressed their concerns with the current approach to education in Australia and concluded:

ALHR holds grave concerns that the current education systems in Australia fail to provide inclusive education to children with disabilities and as a result, children with disabilities are being denied their fundamental human rights.⁶

2.8 The committee believes that it is unacceptable that so many Australian children are being denied their basic human right to access education.

Barriers to education access and attainment

2.9 A key theme from the evidence presented to this inquiry was that the experience of students with disability in the school system in Australia varies widely, depending on multiple factors, including the family's financial means, geographical location and indigeneity.

2.10 The next chapter will address more specifically the costs borne by families of students with disability, including the financial expenses they face as a consequence of seeking the best possible education outcome for their children. However, the nature of this problem is, amongst other things, a question of equity.

Financial means

2.11 Simply put, the committee heard evidence from multiple witnesses that illustrated the point that students from families with greater financial means can have options and opportunities unavailable to children from families without such means.

2.12 This is inherently unfair and creates 'classes' of students with disability, whereby some have a greater chance of educational attainment, and therefore success in later life, and some have much lesser prospects.

2.13 However, even for those families with the financial means to afford additional support for their children, this creates significant financial burdens. Regardless of the outcomes, parents and families of students with disability face substantially higher costs in accessing education for their children than other parents do, and with no guarantee that their child will attain a better education outcome.

2.14 One instance of this relates to the provision and use of assistive technology – such as laptops or tablets – which allow students to engage more in the classroom setting. For many students with disability, access to a device to help them

5 *Committee Hansard*, 29 September 2015, p. 8.

6 Australian Lawyers for Human Rights, *Submission 134*, p. 12.

communicate and learn is a necessary and reasonable adjustment, which therefore the school is obliged to provide.

2.15 However, as the committee heard, parents and families are often forced to pay for these adjustments themselves. One parent told the committee that, on top of all the other expenses incurred in having their child's disability diagnosed and alongside expensive additional tuition costs, they were told by their school that their resources did not allow for these necessary adjustments:

When our children were diagnosed, we went to the school to try to get support, intervention and assistive technology. We were told, 'There's no resources and no funding,' so we have funded that ourselves. I have two children who are dyslexic. The report was \$800 apiece, none of which could be claimed. Prior to having them diagnosed as dyslexic, because we knew nothing about dyslexia, we put them through an extensive occupational therapy program, which totalled \$3,200. Private tuition for my daughter this year is costing us \$13,000. We funded the technology and the assistive tech for both of our children, and that has been in the vicinity of \$3,000 or \$4,000 so far.⁷

2.16 One of the components of the More Support for Students with Disabilities National Partnership Agreement was funding to enable schools to purchase resources including assistive technology, as well as to fund training for teachers to increase their skills with technology devices.⁸ However, that program's completion in 2014 may result in more families having to bear the cost of such devices.

Geographical location

2.17 Since school education remains a state responsibility in Australia, variations are significant between Australian states in terms of access and outcomes. The result of this non-uniform approach is that students with similar disability issues may face very different education systems depending on where they live. Again, the committee heard compelling evidence that this leads to significant inequities between students.

7 Ms Jane Woodley, Gold Coast Dyslexia Support Group, Committee Hansard, 25 September 2015, p. 40.

8 Council of Australian Governments, *National Partnership Agreement for More Support for Students with Disabilities*, p. 4, http://www.federalfinancialrelations.gov.au/content/npa/education/more_support_for_students_with_disabilities/national-agreement.pdf (accessed 17 December 2015).

2.18 Government funding for students with disability varies dramatically across the states and territories. The averages demonstrate the notably different levels of support students can receive depending on which state's education system they enrol in.⁹

2.19 Another illustration of how education experiences differ from state to state is the different levels of support provided by therapists and other specialists in schools.

2.20 Epilepsy Action Australia, for instance, noted variance between the states in their testimony before the committee. In some states students with epilepsy could qualify for additional funding and support; in other states they cannot.¹⁰

2.21 Occupational Therapy Australia provided evidence that the use of occupational therapists (OTs) in schools varied considerably from state to state. In Queensland, the Department of Education and Training employs nearly 70 full-time equivalent OTs to work in state schools, while other states have limited access for privately engaged OTs to schools at best.¹¹

2.22 Similarly, Speech Pathology Australia described the:

... significant variation in eligibility criteria for individualised targeted funding across the states and territories of Australia, and inconsistent definitions and criteria in particular for speech, language and communication disabilities.¹²

2.23 The committee heard from parents who made the life-changing decision to move their family interstate in the hope of improving the education outcomes for their children. The committee finds it completely unacceptable that families need to move across the country so that their children can be educated. Such a move affects all members of a family and may negatively affect employment and financial prospects for the parents.

2.24 For instance, Mrs Theresa Duncombe told the committee about the different experiences her son had in three states:

Ben attended a local school in Western Australia where, after rigorous assessment for funding, Ben's classroom level of support was 0.8 or four full-time days until the end of year 8. We worked closely with the school

9 Australian Council for Educational Research, *Assessment of current process for targeting of schools funding to disadvantaged students, July 2011: a report prepared for The Review of Funding for Schooling Panel*, p. 40, http://research.acer.edu.au/cgi/viewcontent.cgi?article=1009&context=policy_analysis_misc (accessed 7 December 2015).

10 Ms Lisa Todd and Ms Carol Ireland, Epilepsy Action Australia, *Committee Hansard*, 18 September 2015, p. 45.

11 Occupational Therapy Australia, answer to question on notice 29 September 2015 (received 30 October 2015)

12 Speech Pathology Australia, *Submission 275*, p. 12.

and allied health professionals in a collaborative relationship to achieve a strengths-based approach to inclusive Ed. When we relocated to New South Wales, after multiple appeals, funding applications gave Ben 11 hours a week. How can two state systems be so vastly different in the level of support for the same student? Funding does make a difference to the education of students with disabilities, but I have to clarify that, as parents, our expectations do not necessarily equate to one-on-one teacher's aide time with children. There are innovative programs in Australian schools, and, again, this is why we have relocated to Queensland.¹³

2.25 While few students with disability have access to adequate levels and forms of education, regardless of where they live, even within a single state, students can experience vastly different education outcomes as a consequence of the area in which they live.

2.26 Most sharply, students in remote or regional areas are likely to have considerably fewer options than their city-based counterparts. The difference in access to education between those living in Australia's major cities and those in rural or remote areas was described to the committee:

There is a recognition in Australian education that one of the great divides is actually metropolitan and non-metropolitan students.¹⁴

2.27 The difficulties facing students and families from regional areas were emphasised by the submission from the National Disability Coordination Officer Programme, who included a case study of a small regional town to highlight the problems involved:

This limited engagement with professional services and supports particularly affects students with disability who may not have access to skills and experienced early intervention, educational support, transition pathway services such as disability employment services, mainstream employment services, transition to work programs, day services and respite care. The reality usually involves travelling the 3-4 hour round trip to the regional centre. This time away from school further impacts on the student and their educational outcomes. Whilst the local shire council is aware of the above as an on-going issue, and is continually working on lifting the profile of the town and attracting people to meet the skills needs, they are very much concerned that this trend will not change in the near future. In fact the community is concerned that the introduction of the NDIS may exacerbate the situation.¹⁵

13 Mrs Theresa Duncombe, *Committee Hansard*, 25 September 2015, pp 1-2.

14 Mr Ross Fox, Executive Director, National Catholic Education Commission, *Committee Hansard*, 18 September 2015, p. 56.

15 National Disability Support Officer Joint Submission, *Submission 153*, pp 7-8.

2.28 A central concern for students and their families in regional and remote areas is the difficulties involved in finding or maintaining qualified teaching staff, as the Isolated Children's Parents Association Queensland noted:

The recruitment and retention of specialised staff in rural schools in Queensland is an ongoing challenge. Lack of cultural and social opportunities, coupled with sub-standard telecommunications services in many rural areas, are a significant deterrent when attracting suitable professionals such as learning support teachers and guidance officers. Due to the inability to attract specialist staff in the rural and remote environment, the learning support responsibilities in many instances fall on the teacher aide and in one teacher schools where multi-level classrooms are common, this expectation is simply unworkable.¹⁶

2.29 The committee heard from the School Council from Acacia Hill School, in Alice Springs, which provides 'an intensive and inclusive educational program' for students with disability. Given the absence of designated special schools in central Australia, some students at that school have left their families and communities to attend – some now live 12 hours' drive from their families.¹⁷ While the committee commends the Acacia Hills School and other schools like it for their programs and commitment to providing education for all students, it notes the high emotional price some students and their families pay in order to access education in remote parts of Australia.

2.30 A particularly concerning problem for students in regional and remote areas on which the committee received evidence was that of transport to and from school. CDA noted that some students are spending up to four hours per day in transit – meaning that they leave home before 7.00am and return after 5.00pm. Aside from missing out on time with family and friends or playing, for some students with disability, this can cut sharply into their available time for therapy and support. Students are often frequently unable to use the toilet or eat during those hours on school buses, causing further distress or illness.¹⁸

2.31 Ms Catriona Gunn, who provides advocacy and support services for students with disability and their families, also noted that inconsistencies are rife within a single state. She provided an illustration of a family she knows of who moved from rural South Australia to Adelaide in order to better support their child's needs. This has involved substantial emotional and financial upheaval for the entire family.¹⁹

2.32 The committee also received evidence that, even within a particular city, certain schools or districts were notable for their approaches to educating students with disability. To a large extent this reflects an issue to be discussed below, of the

16 Isolated Children's Parents Association Queensland, *Submission 22*, p. 1.

17 Acacia Hill School School Council, *Submission 284*, pp 1-2.

18 Children with Disability Australia, *Submission 257*, pp 41-2.

19 Ms Catriona Gunn, *Submission 138*, p. 1.

importance of the culture within each individual school in influencing how a student with disability would be able to attain education outcomes, but this further highlights the point that, for many students, the quality of the education they receive at school is a consequence of where their family lives.

Indigenous and multicultural students

2.33 While geographic considerations were found to play a real and significant role in the education options available for students with disability, the committee also heard that many of the problems associated with education access and attainment for students with disability are exacerbated for indigenous students with disability. While most students with disability struggle in the education system, it is much worse for Aboriginal and Torres Strait Islander students.

2.34 The First Peoples Disability Network noted that 'inclusive education', as a concept for indigenous students, has cultural elements, alongside the meaning inclusion has for students with disability and that it was crucial that education addressed both perspectives:

... when thinking about what an inclusive education looks like for an Aboriginal or Torres Strait Islander child, you need to consider both the cultural and disability perspectives. These are different. Cultural inclusion is about understanding the cultural obligations that an Aboriginal or Torres Strait Islander child has with their community, whereas inclusiveness from a disability perspective is about recognising the child's specific learning needs related to that impairment and creating a positive learning environment for them. If you have both cultural and disability perspectives, you are setting them on the right path. If you have one but not the other, you are addressing some but you are nonetheless leaving in place substantial barriers to their learning. If you have neither, then you risk a progressive and total disengagement from education and set them on the sadly inevitable path away from education and towards things like the justice system, a life of limited employment prospects, low wealth and all the poor social outcomes associated with that.²⁰

2.35 As Speech Pathology Australia noted, children from indigenous communities may be in most need of additional support, yet are the least likely to receive it:

[Speech pathologists] are usually based in urban areas (Darwin or Alice Springs) and 'access' for remote students is at best a consultative service from a visiting speech pathologist. This means that indigenous students in remote communities often have the most limited access to speech pathology services – when they are often the students who need it most due to the high rates of communication impairment resulting from the epidemic of otitis

20 Mr Scott Avery, First Peoples Disability Network, *Committee Hansard*, 20 November 2015, p. 10.

media (ear infections) in the Aboriginal and Torres Strait Islander child population.²¹

2.36 A further aspect of disadvantage pointed out by the First Peoples Disability Network is that educators' expectations of indigenous students may prevent them from recognising that a particular student has a disability:

... we need to understand that disability and learning impairments occur on a spectrum, and it is often those with moderate disabilities who are at greatest risk. This is because their disability or learning need might not be immediately visible and therefore might not be identified or supported. We have heard examples where children who have hearing problems are being punished because of their impairments and because they are struggling to keep up, and when that happens a child gets branded. We call that the 'bad black kid syndrome', where they think that they are being naughty, but rather it is actually a physical effort that they cannot keep up with their schooling.²²

2.37 Some of these issues also impact upon students from non-English speaking (NES) and culturally and linguistically diverse (CALD) backgrounds. The Multicultural Disability Advocacy Association (MDAA) noted that parents from NES or CALD backgrounds are often unaware of the rights of, and supports available to, students with disability. Families from these backgrounds suffer from a lack of a voice in decision-making processes.²³

2.38 Furthermore, as MDAA noted, poor experiences for students with disability from NES or CALD backgrounds have flow-on impacts including social isolation:

Where children and young people with disability are excluded from school for disciplinary reasons or experience other barriers to attending school with their peers, especially in communities which are not traditionally open to discussing disability and in which academic performance is highly valued, families can become isolated.²⁴

Committee view

2.39 The committee is concerned that variables such as financial means, geographic location and cultural background can make such a profound difference to the availability of education for students with disability. This poses significant questions of equity in Australia's education system, which create and maintain systemic disadvantages for some groups of Australians.

21 Speech Pathology Australia, *Submission 275*, p. 12.

22 Mr Scott Avery, First Peoples Disability Network, *Committee Hansard*, 20 November 2015, p. 10.

23 Multicultural Disability Advocacy Association, *Submission 199*, p. 4.

24 Multicultural Disability Advocacy Association, *Submission 199*, p. 5.

2.40 While acknowledging that the reality of Australia's geography makes it difficult for those living in regional, rural and remote areas to access services, there is no excuse for not providing all children with an appropriate education. The committee is particularly concerned that indigenous students with disability fall through the cracks because educators lack sufficient training to recognise when children have a disability and require support.

Gatekeeping

2.41 The experience of numerous parents in submissions to this inquiry was that many schools find ways to unofficially exclude students. This pattern is referred to as 'informal gatekeeping'.

2.42 This is in direct contravention of the *Disability Discrimination Act 1992*, the National Disability Standards for Education 2005 and state legislation, which oblige all Australian schools to accept the enrolment of students regardless of their level of disability.

2.43 Asked what was the greatest barrier in education for their own children, and for children with disabilities in general, parents told the committee that merely enrolling their child caused significant problems:

I would say getting in the door, because you cannot even get in the door.²⁵

I would agree. It is getting in the door, but it starts even before you get in the door.²⁶

When you walk into a school, you get greeted by closed doors as soon as they know you have a child with disability... it is no good having policies, guidelines, disability standards and all the various acts and the human rights if at the school gate it does not happen.²⁷

2.44 Lifestart, an advocacy and support-provision group in New South Wales, found from their experience that unofficial gatekeeping takes many forms, including:

- refusal to enrol a child because of their disability or delay;
- only offering part-time hours;
- calling parents to pick their child up early or take their child late;
- suspending / expelling a child from school;
- having a child spend extended periods of time outside the classroom;
- not including a child on excursions, in assemblies or other school activities;

25 Mrs Ros Talbot, *Committee Hansard*, 18 September 2015, p. 5.

26 Ms Melissa Smith, *Committee Hansard*, 18 September 2015, p. 5.

27 Ms Theresa Duncombe, *Committee Hansard*, 25 September 2015, p. 3.

- a child being ostracised in the playground; and
- the use of restrictive / restricted practices.²⁸

2.45 All of these practices, Lifestart noted, 'preclude a child from achieving their educational outcomes, set them apart from their peers, [and] lead to a sense of social isolation and low self esteem'.²⁹

2.46 Ms Melissa Smith, the parent of a child with disability, told the committee that she had trouble enrolling her daughter in both primary and secondary school as a consequence of such practices:

[The primary school counsellor] then proceeds to tell me that they will give it a go, but we know it is not going to work. She even took the time to get me the enrolment forms for the local specialist school to save me time.

...

I am now enrolling Lily in high school. I have had one school say no and another maybe, and here it is again that I have an issue with the current role of school counsellors. Even before asking what high school I was looking at, the school counsellor told me that, if I were actually putting Lily's needs first, I would be looking at a special school or, at the very least, a high school that has a unit. After I mentioned that I was looking at just a mainstream high school, she told me that she did not realise they take kids like Lily—like Lily is some other form of child. This conversation was also directly in front of Lily.³⁰

2.47 Other parents commented that, while their chosen school was unable to officially reject their child's enrolment, the process was draining and made to feel like a battle. For parents and families of students with disability, they are always made acutely aware of the costs and troubles the school will incur in providing education, in a way that other parents are not

From the outset it was made very clear to us in all other settings outside of the special school – there is insufficient resources to support Scarlett.

We were clearly advised that she would not be able to have access to a full time aide (by both public and Catholic schools) – despite the serious concerns about her safety and the safety of other children.

This made us feel like we had to fight from the outset as we were aware, and all of the support people in her life (kinder, Paediatrician, Early Intervention, Speech Pathologist) were also aware that her safety would be significantly at risk if she did not have an adult capable of supervising her at all times, including at play times, when she started school.

28 Lifestart, *Submission 237*, p. 3.

29 Lifestart, *Submission 237*, p. 3.

30 Ms Melissa Smith, *Committee Hansard*, 18 September 2015, pp 2-3.

It was also devastating as from the outset it made us feel like Scarlett was a burden and we were a burden. The conversation would inevitably turn to money – which again reinforced that we were a burden. This also had an impact on our elder daughter who did not understand why it was such a big deal for Scarlett to come to school – and that’s a significant point – children and families without disabilities do not need to have these conversations. They are welcomed, knowing it will take resources to support them, but that’s ok, but for those with disabilities the systems has already deemed that the resources required are too much (as they are not available), and as such – the systemic discrimination exists before you even set foot within a school.³¹

2.48 Another parent noted that for students whose disability does not attract additional funding, this practice of gatekeeping can be particularly pronounced:

When the school was given the official diagnosis the very first words from the Principals mouth were 'what funding is available?' When no funding was available for [Tourette's Syndrome] the school quickly became disinterested in assisting my son in any way or accommodating his needs. School became a constant battle and instead of assistance it felt as if every effort was being made to make us want to take our son elsewhere as they simply did not want to, and were incapable of offering the assistance required. We had a very negative experience.³²

2.49 Ms Sue O'Reilly, of Down Syndrome Victoria, told the committee that gatekeeping is one of the major issues her organisation hears about from families. As noted above, parents of students with disability are frequently told that providing an education to their children is too expensive for their school, and thus are discouraged from enrolling them:

The biggest hurdle that families have is enrolling their child into their local mainstream school—that is very stressful for them—and then keeping them in a mainstream school. Some are told point blank that their child should be at a special school, or they are not given the enrolment details, or they are given the financial story around why the school cannot accommodate their child.

...

For families, once their child is born with Down syndrome, the whole starting school process from preschool is incredibly stressful. We have three education consultants who work with families during that time, trying to make them aware of their legal rights and advocate for them. But, ultimately, we do not have a lot of power, apart from trying to support them. That is the most frustrating thing for families. We know of schools that are openly doing the wrong thing, but they are not accountable.³³

31 Ms Monica Kelly and Mr Murray Turner, *Submission 216*, p. 2.

32 Trudy Whitcombe, *Submission 103*, p. 6.

33 Ms Sue O'Reilly, Down Syndrome Victoria, *Committee Hansard*, 20 November 2015, p. 3.

2.50 Family Advocacy, a New South Wales-based advocacy organisation for people with disability, also reflected on this issue, and pointed out that, while contemporary discrimination is more veiled than it once was, discrimination against students with disabilities still occurs:

Discrimination continues in a much more subtle way than it once did. Education providers may not inform families of children with disabilities that they have a choice to be enrolled in the regular class and that there are special measures to provide appropriate support. Often families will be heavily persuaded to enrol their child in a support unit or segregated school and told by multiple school professionals such as principals, teachers and school counsellor that by considering a regular class for their child would be detrimental to both their child and the other 'non-disabled' children.³⁴

2.51 Reflecting on her research in the area, Dr Rozanna Lilley, who has published on the topic of parental experiences of gatekeeping in schools, noted:

The practice of informally discouraging families from sending their children with autism to mainstream schools continues in all three sectors of the NSW education system – government, Independent and Catholic. Maternal narratives of school exclusion suggest that mothers were often actively pushed around by school gatekeepers who adopted a range of strategies to keep out children diagnosed with autism.³⁵

2.52 This practice, Dr Lilley found, had flow-on effects beyond the actual difficulties parents faced in enrolling their children in schools:

The ongoing and pervasive stigmatisation of students with autism and their families by some school gatekeepers and educators has a very negative emotional impact. Mothers' school exclusion narratives point to the salience of experiences of stigmatisation in the lives of families of children with autism.³⁶

2.53 Referring to other research done in the area, Dr Lilley noted how a common finding was that autism becomes, for students on the spectrum, a 'master status', whereby it serves to override other elements of the child's personality.³⁷ In other words, a student's autism is seen as their primary, or only, characteristic.

2.54 The consequence of this, then, is a tendency for children with autism to be rejected by the school system:

When a parent mentions the word 'autism', the process of enrolment is often entirely redefined. School gatekeepers respond in a variety of ways, many

34 Family Advocacy, *Submission 135*, pp 6-7.

35 Dr Rozanna Lilley, *Submission 94*, p. 2.

36 Dr Rozanna Lilley, *Submission 94*, p. 2.

37 Rozanna Lilley, 'It's an absolute nightmare: maternal experiences of enrolling children diagnosed with autism in primary school in Sydney, Australia'; attachment to *Submission 94*, p. 6.

indicating panic at the potential disorder that may be unleashed on their school by the mythicised student with ASD. There is concern that the student will use up already stretched resources with their learning difficulties and behaviour problems. Perhaps most fundamentally, gatekeepers are uncertain about what a diagnosis of autism implies for a child's ability to learn and to conform. In this situation, many react defensively with an effort to keep the child out. Parents who are advocating for their child may encounter a mild display of slights, snubs and untactful remarks. Or they may experience a series of hostile and concerted efforts to move them elsewhere in the system.³⁸

2.55 Parents also reported to the committee that they could be given the impression from schools that their child was less entitled to an education than other students. Asked if the school would view her daughter as entitled to an education, like any other, one witness told the committee:

I think they would say that, but it is that contradictory nature of it; you can say what you want until you are blue in the face but if you then also say, 'We want to enrol her part-time,' that tells me that you treat her differently from every other person in that school.³⁹

Committee view

2.56 The committee notes with great concern that this practice serves to further discriminate against and isolate children with disability and their families.

2.57 It is the view of the committee that far more needs to be done to enforce the law prohibiting the prevention of enrolment of students.

Culture of the school

2.58 A point made repeatedly to the committee during the course of this inquiry was that the biggest difference between students having strong educational attainment and outcomes and not, is the culture of the school they attend. Very often, this culture comes directly from the school principal and other leaders making a priority of inclusive education for students with disabilities.

2.59 Witnesses from People with Disability Australia spoke of the importance of the school's culture in making a difference in that school's ability to offer strong education outcomes to students with disabilities:

I think it is also about the general culture or approach to disability in schools. For example, are there people with disability on the board of governors of schools or not? Are there people with disability on staff, and

38 Rozanna Lilley, 'It's an absolute nightmare: maternal experiences of enrolling children diagnosed with autism in primary school in Sydney, Australia'; attachment to *Submission 94*, p. 6.

39 *Committee Hansard*, 20 November 2015, p. 3.

why wouldn't there be? In terms of teaching and teacher training, it is also about disability awareness and having disability awareness and disability confidence throughout the person's teaching experience so that when a new teacher starts a job at a new school and they see all of these steps going up to the main gates, they think, 'Why do we have all these steps? This school is not accessible,' and they say something about it rather than just not notice it, for example. If a teacher has a new student and that student has a hearing impairment or is deaf, they do not think: 'What am I going to do? I don't know how to deal with this.' They just think, 'Okay, that is another student,' and they are confident in knowing how to approach that situation. That is as opposed to what I think happens a lot at the moment, where disability is seen as this extra thing that has to be done—extra work, extra funding or extra cost. It is always an add-on that needs to be addressed, rather than just a part of life.⁴⁰

2.60 In giving evidence for this inquiry parents often spoke of the differences they had experienced between different schools as coming down to the attitudes they encountered, underpinned by a philosophy of genuine inclusion:

This school is following Georgia's lead and sees itself as part of a team. They run a unique program. They have a support class, but the support class does not operate as a support class. It is part of the school. There are no fences; there is no separate area. The kids do not belong in one classroom. Georgia is in mainstream but she accesses the English and the literacy classes, but they are proper English and literacy classes. There are other kids that come and go. If you go to the school, there is a big panel and each child has their own program. It would be the learning enrichment centre of the school. It should not be called a support unit. It is a learning enrichment centre, because other people come and go, and teachers will come in there and get information. If any other teachers need help with modification, with the curriculum out in mainstream, they will come to the specialised staff in this area, but they all do not belong in that area... It is the philosophy of inclusion done in a very unique and diverse way.⁴¹

2.61 Another parent, asked what made one school different from another, answered:

Attitude and culture. It was acceptable. I know primary school is a lot different from high school. I firmly believe it is the attitude of the principal to education. At that very first greeting, even at the admin desk, having a child with disability should not be the issue; the issue must be the education. We come to educate our kids. We are tired of having it put to our faces that the only placement for our children is in supported education or special schools. That is the first thing you get. 'Have you been to the district

40 Ms Ngila Bevan, People with Disability Australia, *Committee Hansard*, 18 September 2015, p. 13.

41 Mrs Ros Talbot, *Committee Hansard*, 18 September 2015, p. 3.

office, thought about supported education units or special schools?' Actually, I do not want that for my son. That is not the right setting.⁴²

2.62 A student who spoke to the committee described one school he had attended:

That was good—actually, 'good' is an understatement. It was fantastically brilliant. I learnt lots, had fun, contributed and made great friends. The school and the principal, Mr Warren, believe that all kids should learn. They were good at recognising the extra support I needed, and I just felt like I belonged like all the other kids. We had our moments, but Mr Warren would always listen to me and give me a fair hearing. If he thought I was being unreasonable, he would tell me why, but he would also change things or send in the cavalry if I needed it. I felt safe and well liked.⁴³

2.63 CDA commented that examples of good practice in the education of students with disability tend to be 'the result of leadership from specific individuals or schools rather than a system wide approach'.⁴⁴

2.64 Asked by the committee how to avoid the problem of a school's attitude towards students with disabilities resting so heavily on the priorities of one individual, Down Syndrome Australia responded:

It is complex because this is, ultimately, about cultural change. I go back to the National Disability Strategy. It talks beautifully to the nature of the cultural change that needs to occur in this community.⁴⁵

Committee view

2.65 The committee notes that school principals have an important role to play in establishing a culture of support and inclusion in their school, and commends those who do this. The committee heard evidence of many principals and schools who demonstrate what is possible – educational practices that provide the best possible options for students with disability – and illustrate how schools can be beacons in the community for their inclusion of students with disability.

Education rather than babysitting

2.66 A related concern shared by multiple parents, advocacy groups and other submitters was a belief that children with disabilities received babysitting, rather than an education, from the school system.

2.67 This is in part a consequence of low or, in some cases, no expectations of students with disabilities – that educators and other students fail to recognise students

42 Ms Theresa Duncombe, *Committee Hansard*, 25 September 2015, p. 3.

43 Mr Danny Dickson, *Committee Hansard*, 29 September 2015, p. 1.

44 Children with Disability Australia, *Submission 257*, p. 23.

45 Ms Monica Kelly, Down Syndrome Australia, *Committee Hansard*, 20 November 2015, p. 6.

with disabilities as capable of learning. As will be further discussed below, another factor is that teachers are unaware of how best to educate students with disability, and therefore may not adequately take into account the different learning needs of these students.

2.68 CDA, in discussing Australia's 'systemic culture of low expectations', argued that:

Ableism is evident in the Australian education system, which has a deeply entrenched culture of low expectations regarding students with disability. The value of education, which is so highly thought of and applied to children without disability, is often seen as inapplicable or irrelevant for students with disability.⁴⁶

2.69 Similarly, advocacy group JFA Purple Orange noted the importance of students with disability receiving an education which will prepare them for a 'valued and productive adult life', but pointed out that too often this does not happen, as 'Students and their families are often beset with messages from others about what is not possible, about having lower expectations because of the circumstances of disability'.⁴⁷

2.70 Ms Stephanie Gotlib of CDA discussed the negative effects on students when their learning needs are not taken seriously:

The next school he went to—another autistic-specific school—asked me why he needed to learn how to read. Why did I want my child to learn how to read? His educational program was put in his bag on a hook. Throwing a ball—I can remember showing it to a very strong advocate, who you will see later this morning. She thought I had done it as some joke where his whole half year was to put his bag on his hook, put his lunchbox in his bag after lunch, washing his hands 20 times—things you teach your kid at home. But there were such low expectations.

We finally moved him in grade 2 to his local primary school for a range of reasons, and he was given the opportunity to learn to read and write. The principal quips that it helps if you are taught, and it is true. He was never taught. He has got very low literacy. He has got significant developmental delay—I know that—but he has functional literacy and numeracy. I do not need to justify why he should be able to learn how to read and write. His world is greatly enriched through his learning but he was denied the opportunity because of these assumptions that someone with a cognitive impairment should not learn. It was disgraceful.⁴⁸

2.71 Witness from Down Syndrome Australia also commented on this issue when providing evidence to the committee:

46 Children with Disability Australia, *Submission 257*, p. 14.

47 JFA Purple Orange, *Submission 277*, pp 19-20.

48 *Committee Hansard*, 29 September 2015, p. 6.

Similarly, the biggest predictor of success of a child with an intellectual disability—and it is the same for Aboriginal people as well, in fact, any child—is that people around them have expectation of them. This is where it is about changing the way people approach things and it is about having inclusive practices—not treating children as different and separate or about supporting them as a need. It needs to be about a whole-of-school, whole-of-system approach.⁴⁹

2.72 The committee noted that low expectations of – and therefore reduced options for – students with disability was a recurring point:

CHAIR: I was reading through some of the horrific examples that you gave us. It came up a couple of times that a curriculum was modified without any assessment being made of the child's ability to handle a full curriculum. I am just wondering, how often does that happen—where it is automatically assumed that the curriculum has to be modified but where there is no actual test or any rigor to that assessment? What is your experience of that?

Ms Evans-McCall: Quite a few times, but also it is quite often just that assumption—regardless of whether it is around curriculum—around aspiration as well. So quite often, the young people do not even get to choose certain subjects because they have already made the assumption that they are not going to be able to do it—rather than letting them have a go.⁵⁰

2.73 As the Gold Coast Dyslexia Support Group noted, students with disability can grow frustrated, embarrassed and ashamed of their difficulties with aspects of learning, leading to poor educational outcomes and will often lead to the student 'disengag[ing] from learning'.⁵¹

2.74 Another parent noted that after their son moved from a mainstream school to an autism-specific school the approach to his education changed significantly, and for the worse:

Of course with the changes, the curriculum has changed. My son no longer has literacy and numeracy as part of his education. Also gone are any subjects of interest, such as science, history and geography. There is very little to engage my son at school now, so he won't learn much, but at least he gets to enjoy trampolining at Bounce, rock climbing or other fun activities. His class is often told to pick a book of the shelf and read quietly, tax payer dollars wasted! I did ask if my son could do comprehension and maths work instead of reading and the teacher was willing but had to order worksheets for him. They do have some good programmes to teach life skills, such as travel training, but I'm not happy with the school as I see very little to prepare my son for the future. His funding is wasted as it's not helping him as it should. I have no real options when it comes to schools as

49 *Committee Hansard*, 20 November 2015, p. 6.

50 Mrs Andrea Evans-McCall, National Disability Coordination Officer, *Committee Hansard*, 20 November 2015, pp 20-21.

51 Gold Coast Dyslexia Support Group, *Submission 21*, p. 6.

none will prepare my son for a productive future. I consider school as respite, and if my son learns anything, well then I'm thrilled. He complains that he never learns anything and he is worried about his future too.

...

It's distressing for me to think so much money is going to my son's school to support and educate my son and I see very little benefit for him and his future.⁵²

2.75 Yet another parent told the committee of how her son's school experience largely consisted of sitting in front of children's movies:

There are issues of the constant use of DVDs as a learning tool. Ben at 16 years of age was watching *Frozen* and *The Lion King*—totally inappropriate.⁵³

2.76 A further way in which this failure to take seriously the education of students with disability is manifest is through schools refusing to accept students on a full-time basis. While for all students, full-time enrolment is both the legal obligation and the norm, many parents found that, for students with disability, this obligation was not met.

2.77 CDA's submission noted numerous instances of this practice, as schools found ways to exclude students with disability from full-time attendance, and therefore a meaningful education. Some of the examples included were:

My son...has only attended school 2.5 days per week this year, as that is all his school says they can do to meet his needs. The flow on effects to families (earning ability, stress etc.) are horrible – Parent.

I had a terrible experience with my son's high school last year they would only allow him at school for two hours per day – Parent.

The school won't let (my daughter) attend past 12 noon when aide time 'runs out' – Parent.

A Catholic primary school said he could no longer attend full time because half his funding was being given to another child. The second primary school said he couldn't attend full time because he would run around or sit at the front of assemblies and also could not attend when the school had visitors (because he was a) disruption. The third NSW primary school was one hour's travel and wouldn't allow him to retreat to the classroom when he became overwhelmed during breaks – Parent.⁵⁴

2.78 Similarly, the Association for Children with a Disability reflected on the experiences of parents whose child was 'only allowed to attend for the equivalent time that an aide is present with their child at school' and that some parents have had to quit

52 *Submission 143*, p. 1.

53 *Committee Hansard*, 25 September 2015, p. 1.

54 Children with Disability Australia, *Submission 257*, p. 21.

the paid workforce 'because the school has called them so often to take the child home'.⁵⁵

Committee view

2.79 The committee is shocked and saddened by the evidence provided of schools failing to recognise their responsibilities to educate all children and disappointed by the underlying assumption of some that students with disability do not require or deserve to have their future life, especially career prospects, taken seriously.

Lack of awareness and understanding

2.80 Multiple submitters told this inquiry that a significant barrier for students with disability in accessing education, is widespread ignorance of the Disability Standards 2005 (the Standards) or the right of all children to have access to education.

2.81 The Standards were developed under the *Disability Discrimination Act 1992*, and set out the obligations of education and training providers in relation to providing access to education for students with disability.⁵⁶

2.82 The key provision of the Standards requires all education providers to 'make reasonable adjustments to assist students with disability to participate in education on the same basis as other students'.⁵⁷

2.83 The aspects of education included in the Standards are:

- enrolment;
- participation;
- curriculum development, accreditation and delivery;
- student support services; and
- elimination of harassment and victimisation.⁵⁸

2.84 The Standards are reviewed every five years, including in 2015. The 2015 review made a number of key findings, including:

- The Standards remain an important component of a wider policy landscape seeking to ensure people with disability are able to access and participate in education on the same basis as others. Stakeholders provided near universal support for the Standards as a regulatory tool to set down the rights of people with disability and obligations of education providers;

55 Association for Children with a Disability, *Submission 279*, p. 4.

56 Department of Education and Training, *Submission 246*, p. 5.

57 Department of Education and Training, *Submission 246*, p. 5.

58 Department of Education and Training, *Submission 246*, p. 5.

- Awareness among educators and education providers is relatively high, although there remains a need to continue effort on supporting development of the skills to interpret and apply the Standards in practice. Educators are generally positive about the value of the Standards to their work and the reference point they provide. However, some aspects of the Standards are less clear than others, and there is room to clarify areas of ambiguity;
- Awareness of the Standards among people with disability and their associates is patchy, and is likely to be lower among groups who experience additional disadvantage, including people who are Aboriginal or Torres Strait Islander, from new communities, from low socio-economic backgrounds or who live in rural and remote Australia; and
- A large number of submissions were received from parents of school-aged children with learning disabilities who expressed frustration at the limited effective supports available to their children. Many submissions referred to school-based practices that on face value breach the Standards and had resulted in a significantly negative impact on their child.⁵⁹

2.85 As the Redfern Legal Centre noted:

The introduction of the Disability Standards in 2005 represented a positive commitment to address concerns over access to education for students with disabilities. However, in the years since their development, there has not been significant adoption or adherence to the standards, with many advocacy groups suggesting the standards are too vague or that education providers are not sufficiently cognisant of obligations arising under the standards. As a result, many education providers can misinform parents or carers that they do not have the facilities or capacity to appropriately provide education to students with disabilities, and therefore deny enrolment, apparently unaware that the standards require education providers to be responsible for the implementation of necessary adjustments.⁶⁰

2.86 Ms Therese Sands, of People with Disability Australia, argued that the Standards are not having as strong an affect as they should do because:

I think it is still true to say that they are not well understood systemically—across the schooling system. And how to apply them is also an issue. So if they are not understood, they are not well known and it is not clear how they are applied—it means they exist in law, but they are not being

59 Urbis, *2015 Review of the Disability Standards for Education 2005: Final report*, 17 July 2015, pp ii-iii, <https://docs.education.gov.au/system/files/doc/other/final-report-2015-dse-review.pdf> (accessed 7 December 2015).

60 Redfern Legal Centre, *Submission 101*, p. 7.

implemented in practice. But there are also aspects of the standards that need constant review.⁶¹

2.87 Aside from the specific Standards, multiple submitters/witnesses argued that many in the education system are unaware of, or do not consider, the right of children to receive education in a form suitable to them.

2.88 This point was made by the Redfern Legal Centre, drawing on Australia's Disability Discrimination Act (1992):

Disability Discrimination Legislation makes clear that education should be accessible and inclusive for all students, including those with a disability, and the Disability Standards provide significant guidance to assist education providers to adhere to this legislation and understand their obligations. Given this, it is inequitable that students, parents and caregivers should be required to bear the burden associated with ill-equipped or noncompliant schools.⁶²

2.89 More broadly than understanding of legal obligations under the Standards, another barrier identified was of teachers' lack of understanding or willingness to implement adjustments for students. A frequently made point was that many in the school system – regardless of sector – lacked awareness of the issues involved in education for students with disability, and that this problem needs to be addressed by adding to or improving teachers' training on disability-related issues.

2.90 One parent identified teachers' unwillingness to accommodate the recommended adjustments as the greatest barrier for their child's education:

For me it would be the school denying adjustments written by specialists. They either set them aside or they just flat-out say no.⁶³

2.91 Another parent, who is also a Clinical Psychologist, related a similar experience:

I have heard clients in my professional practice, as well as from other parents of special needs children, say time and time again that the school or teaching staff are either unwilling or unable to provide adequate understanding and commitment to support children with disabilities at their schools. In our personal experience, we have heard a school official state that in primary school, the students with disabilities 'can just get by' by doing alternative activities at school, rather than adjusting the academic curriculum for those with disabilities. If individuals are to have any chance at a productive life, we need to plant the seeds in the early childhood years.⁶⁴

61 Committee Hansard, 18 September 2015, p. 10.

62 Redfern Legal Centre, *Submission 101*, p. 10.

63 Mrs Leonie Ponder, *Committee Hansard*, 25 September 2015, p. 6.

64 Dr Lisa-Marie Scott, *Submission 132*, p. 1.

2.92 Witnesses from Down Syndrome Australia commented on the problem of teachers and other school staff being unable, or unwilling, to access resources which could help them meet the education needs of students with disabilities:

I think that the Department of Education across Australia have done great things, obviously with the national collection of data. They have put a lot of money into developing the resources for the teachers, but a lot of them are not being used. I will go into schools and ask teachers if they have accessed any of those resources, and some of them have not. They are not aware of them. We hold professional development days for teachers. A lot of them cannot get access to that because they are not given release time.⁶⁵

Or you might have an educator going out there to talk to the educator in the school about giving them some strategies to work with the child. They are not given any class release time. Our educators might be chasing them around on their lunchtimes trying to impart this information, because it is not valued. That is of great frustration to us. We have this service that we can get being funded by the Victorian education department and we are going into schools trying to impart this knowledge, but the teachers say, 'I've got all of these other kids here that I have to teach. You're talking to me about one child.' That sort of attitude is very difficult.⁶⁶

2.93 Submitters noted that students would benefit simply by teachers being more aware of issues students with disability face, which would allow the teachers to focus more on education than on behaviour management.

2.94 Asked what should be the top priority for teachers, Mrs Andrea Evans-McCall of the National Disability Coordination Officer program suggested:

It is the whole disability awareness factor, especially under the autism spectrum, because a great focus is on behaviour management rather than actually teaching the individual how to learn. And that point of view is really just ignorance, and partially fear based, because you will do anything to avoid the conflict in the classroom, and behaviour management—it is just human nature.⁶⁷

2.95 Similarly, People with Disability Australia argued strongly that understanding of disability standards and inclusive education practices in a broad sense should be central to teacher education and training:

If we are going to say that inclusive education should be at the core of our education system then it should be at the core of our teacher training... It should not be an optional extra or a selective stream that a student teacher might decide to undertake. If we are saying that there needs to be an outcome of inclusive education and there needs to be data collected that shows we are achieving it, that there are indicators that show we are

65 Ms Sue O'Reilly, Down Syndrome Victoria, *Committee Hansard*, 20 November 2015, p. 6.

66 Ms Ruth Webber, Down Syndrome Australia, *Committee Hansard*, 20 November 2015, p. 6.

67 *Committee Hansard*, 20 November 2015, p. 25.

achieving it, that schools have to demonstrate it, that it is built into our testing and our standardised testing across schools, then it becomes something that is not just an add-on; it becomes something that is critical to the education of teachers and it is embedded in the curriculums.⁶⁸

Committee view

2.96 The committee notes that a key barrier to students' achievements at school is a lack of even basic awareness in some schools of the rights and needs of students with disability. This lack of awareness has significant and unacceptable impacts on the education of students.

2.97 The committee is of the view that awareness of the rights and needs of students with disability should be a uniform and key component of all initial and ongoing teacher and school administrator training.

Teacher-family communication

2.98 A related issue raised by submitters to this inquiry is of the importance of a relationship between teachers (and schools more generally) and the families of students with disabilities. Multiple parents shared their frustrations at not being adequately consulted about – or often even informed of – decisions made regarding their children's education.

2.99 As the Redfern Legal Centre noted:

A crucial area demonstrating the lack of adherence to the Disability Standards is in the area of communication between education providers and the parents of students with a disability. The requirement for consultation between education providers and students with a disability, or an associate of the student, is evident throughout the Disability Standards. These standards recognise the important perspective students and their parents can contribute in determining strategies and approaches to the provision of education to specific students with a disability. This is of particular concern for students with a disability, who may, in some circumstances, have difficulty communicating to their parents any difficulties or concerns they are experiencing. Parents and caregivers will therefore be even more reliant on consultation with education providers to grasp an accurate sense of the student's experience.

Despite this, RLC has encountered multiple clients who have felt insufficiently consulted on matters relating to students with a disability, and, frequently, are only contacted once situations have escalated to a more serious level. This can cause significant distress for students, parents and education providers, and could be avoided through close adherence to the requirements for ongoing and detailed consultation between education providers and associates of the student.

68 *Committee Hansard*, 29 September 2015, p. 11.

2.100 Some parents reported that their relationship with their child's school was based on feeling shame, rather than a productive relationship concerned with education:

I was working with a family not that long ago and I was struck by something the mother said. She said that every time the phone rings she gets the shivers, because the only reason the school calls is when her son has thrown a chair. For her the relationship with the school was around shame. That is how she experienced it—and that there was no relationship built outside of just those key incidents. Because we do not have support for students at the earlier levels, that is what the system is relying on—a more punitive approach, which just further excludes students.⁶⁹

2.101 Lifestart made as one of their main recommendations that schools need to prioritise improving both formal and informal communications with parents and carers. They pointed to the resources developed by The Education Institute at the University of Canberra in collaboration with the Department of Education and Training to help teachers identify the best ways to forge collaborative relationships with parents.⁷⁰

Restrictive practices

2.102 The committee received multiple submissions from parents and carers which described the use of restrictive practices, such as physical restraint or isolation in separate rooms, and abuse in schools against students with disability. While not strictly falling within the terms of reference for this inquiry, and noting the recent Senate Community Affairs References Committee report into violence, abuse and neglect against people with disability in institutional settings, the committee strongly condemns this practice.⁷¹

2.103 Further, the committee notes that students suffering violence, abuse or neglect in the school setting will face significant and concerning barriers in their access to education, alongside the other barriers discussed in more detail in this chapter.

Committee view

2.104 The committee is deeply concerned at the number of barriers which can face students with disability and their families as they attempt to access education, including financial means, geographic or cultural considerations, the gatekeeping practices and lack of awareness of students' needs faced by many families and the

69 Mr Sebastian Cordoba, Australian Association of Social Workers, *Committee Hansard*, 29 September 2015, p. 40.

70 Lifestart, *Submission 237*, p. 8.

71 Community Affairs References Committee, *Violence, abuse and neglect against people with disability in institutional and residential settings: Final report*, November 2015, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Report, accessed 7 December 2015.

failure of some in the education system to take seriously the rights of all students to a proper education which will set them up for life.

2.105 The committee recognises the challenges faced by students with disability, their families and sometimes their schools. However, it is the firm view of the committee that each and every child deserves an education and that further attention is required to address the concerning issues raised in this chapter.