

Submission by



qai

Queensland
Advocacy
for Inclusion

QAI's solutions to the overuse of school disciplinary absences in Queensland state schools

To the Queensland Department of Education

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About Queensland Advocacy for Inclusion

Queensland Advocacy for Inclusion (QAI) is an independent, community-based advocacy organisation and community legal service that provides individual and systems advocacy for people with disability. Our purpose is to advocate for the protection and advancement of the needs, rights, and lives of people with disability in Queensland. QAI's Management Committee is comprised of a majority of persons with disability, whose wisdom and lived experience guides our work and values.

QAI has been engaged in systems advocacy for over thirty years, advocating for change through campaigns directed at attitudinal, law and policy reform.

QAI also provides individual advocacy services in the areas of human rights, disability discrimination, guardianship and administration, involuntary mental health treatment, criminal justice, NDIS access and appeals, and non-legal advocacy for young people with disability including in relation to education. Our individual advocacy experience informs our understanding and prioritisation of systemic advocacy issues.

Since 1 January 2022, QAI has also been funded by the Queensland Government to establish and co-ordinate the Queensland Independent Disability Advocacy Network (QIDAN). QIDAN members work collaboratively to raise the profile of disability advocacy while also working towards attitudinal, policy and legislative change for people with disability in Queensland.

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Introduction

An inclusive education system is one that recognises the right of every young person to be welcomed as a valued learner. It involves adapting learning environments and teaching approaches to ensure students can participate in education on an equal basis with others.¹ This means students with disability receiving reasonable adjustments and support to learn alongside their peers and having access to the multitude of benefits that attending school can bring.

There is also a well-established link between educational outcomes and success in later life, with education being ‘one of the most powerful tools by which economically and socially marginalised children and adults can lift themselves out of poverty and participate fully in society’.² Education is therefore fundamental to socialising children and preparing them for adult life, teaching essential skills and facilitating pathways to employment and the realisation of a meaningful life.

However, for students who receive school disciplinary absences (SDAs), they are denied these opportunities. “School disciplinary absences” is a term used by the Department of Education and includes suspension, exclusion and the cancellation of enrolment following instances of behaviour that a school deems to be unacceptable.

This report discusses current trends in the use of SDAs in Queensland state schools, including the disproportionate use of SDAs on students with disability. It outlines the various consequences of excessively suspending and excluding students with disability and concludes by outlining QAI’s recommendations for evidence-based reform.

¹ Australian Coalition for Inclusive Education, “*Driving change: A Roadmap for achieving inclusive education in Australia*”, February 2021, p4

² United Nations Educational, Scientific and Cultural Organisation; ‘Right to education’; <https://en.unesco.org/themes/right-to-education>

1. Current trends in school disciplinary absences in Queensland state schools

Since 2022, QAI, together with the Aboriginal and Torres Strait Islander Legal Service (ATSILS), Youth Advocacy Centre (YAC), PeakCare Qld and Youth Affairs Network Qld (YANQ), have been leading the *A Right to Learn* campaign which seeks to address the disproportionate use of SDAs on certain students in Queensland state schools.³

This is based upon research by QAI and the Centre for Inclusive Education (C4IE) which found evidence of disproportionate and excessive suspensions for First Nations students, students with disability and students in out of home care. For example, students with a disability made up only 18.9% of enrolments in 2020 yet received 49.2% of all short suspensions (1-10 days). This equates to 2.18 suspensions on average per student.⁴

Our research also showed:

- When students are in more than one of these groups, the risk of suspension is even greater, highlighting the need for nuanced policy responses that respond to the intersecting identities of students disproportionately receiving SDAs
- Students receiving social-emotional adjustments at school, such as neurodiverse students, are issued *repeat* suspensions at a higher rate than students with other types of disability; and
- Disability is the most common factor among suspended students, raising urgent questions as to whether students with disability are receiving the adjustments and support to which they are entitled under legislation.

³ A Right to Learn. [online] Available at: <https://www.arighttolearn.com.au>

⁴ Graham, L.J., Callula Killingly, Alexander, M. and Wiggans, S. (2023). Suspensions in QLD state schools, 2016–2020: overrepresentation, intersectionality and disproportionate risk. Australian Educational Researcher. doi:<https://doi.org/10.1007/s13384-023-00652-6>.

While SDAs may be appropriate in very limited circumstances, as a last resort measure, the evidence suggests they are being used more frequently than is required.⁵ Further, it might be assumed that the number of SDAs reflects the prevalence of challenging behaviour within a school, however there are numerous reasons why SDAs are used, some of which do not directly correlate to the behaviour of the student concerned.⁶ For example, a suspension may be used as a ‘warning’ to other students or used as a way of removing non-compliant students during inspections by accreditation authorities.⁷ In these situations, the limitation on a child’s right to education is not a last resort measure and is neither a necessary nor proportionate limitation on the child’s right to education.

QAI considers that the prevalence of SDAs among students with disability in particular, typically reflects the culture of an individual school and the extent to which it values and promotes the principles of inclusive education. Whilst some schools provide exemplary support to students with disability, others appear to reject or misunderstand the values of inclusion and operate practices that are discriminatory towards students with disability. For example, unreasonably denying requests for reasonable adjustments that would ensure students with disability can access education on the same basis as others.

The absence of reasonable adjustments for many students with disability, particularly students with autism and/or attention deficit hyperactivity disorder (ADHD), can lead to escalations in behaviour that would otherwise be avoided if reasonable adjustments appropriate to their needs were in place. An absence of trained staff skilled in behaviour management techniques can then lead to further escalations in the child’s behaviour, resulting in disciplinary measures such as a suspension or exclusion and/or the use of

⁵ Graham, L. (2020) Questioning the impacts of legislative change on the use of exclusionary discipline in the context of broader system reforms; a Queensland case study; *International Journal of Inclusive Education*, 24:14, 1473-1493

⁶ Ibid

⁷ Parsons (2018) cited in Graham, L. (2020) Questioning the impacts of legislative change on the use of exclusionary discipline in the context of broader system reforms; a Queensland case study; *International Journal of Inclusive Education*, 24:14, 1473-1493

restrictive practices, further entrenching the child's segregation within the school community.⁸

All of this is occurring despite overwhelming evidence as to the ineffectiveness of school disciplinary absences in reducing behaviours of concern. Graham highlights the fundamentally flawed assumption upon which SDAs are based – that is, that challenging behaviour is a conscious choice enacted by individuals who can self-regulate their emotions.⁹ Therefore by punishing students who exhibit challenging behaviours, it is presumed that school disciplinary absences will act as a deterrent and change the student's decision-making prior to 'choosing' their behaviour in future. While this may be true for *some* students, notably students *without* disability who are statistically less likely to receive multiple suspensions¹⁰, it is too simplistic an explanation for all 'challenging behaviour' which is often a reflex communication strategy for students with communication difficulties in situations of heightened distress or those experiencing overwhelm. It can also be a manifestation of a person's disability.

2. The consequences of excessive recourse to school disciplinary absences

The consequences of inappropriate and excessive recourse to SDAs are profound. Students removed from school are denied access to fundamental educational materials, learning opportunities and critical chances for relationship building and skill development. Students do not always receive work to complete at home or appropriate support to continue their

⁸ See Graham et al. (2020). Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian government schools: Final Report. The Centre for Inclusive Education, QUT: Brisbane, QLD, p362 – Finding 5.1

⁹ Graham, L. (2020) Questioning the impacts of legislative change on the use of exclusionary discipline in the context of broader system reforms; a Queensland case study; International Journal of Inclusive Education, 24:14, 1473-1493

¹⁰ See Graham, L.J., Callula Killingly, Alexander, M. and Wiggans, S. (2023). Suspensions in QLD state schools, 2016–2020: overrepresentation, intersectionality and disproportionate risk. Australian Educational Researcher. doi:<https://doi.org/10.1007/s13384-023-00652-6>.

education.¹¹ They report feeling anxious, humiliated, and isolated from their peers, all of which then impacts their ability to successfully reintegrate back into school following their absence.

Sometimes students are forced to move schools but struggle to enrol in other schools due to enrolment management plans and gatekeeping practices of some school principals, leaving the student faced with either Special Education (if it is even an option due to restricted eligibility) or home schooling and thus reinforcing the segregated model that inclusive education policies are seeking to overcome. This is particularly problematic for students in rural or remote parts of Queensland, where there are limited or no other schools in which to enrol.

Immediate consequences for parents can also be significant, with many reporting elevated levels of psychological distress as well as financial hardship and risks to the sustainability of their employment. This occurs due to being unable to attend work and/or being forced to take leave whilst tending to their children unexpectedly. These risks are especially high for low-income or single-parent families with limited supports.

The inappropriate use of SDAs can also teach other students to segregate themselves from peers who exhibit challenging behaviour, rather than show understanding, empathy, and compassion for people whose behaviour is likely trying to communicate an unmet need. Research has also demonstrated long-term impacts, with students who received SDAs going on to experience poorer mental health, prolonged unemployment, increased stigma and feelings of rejection, and an increased risk of homelessness.¹²

Despite education being fundamentally about socialising students and preparing them for adult life, for some it is the beginning of the 'school-to-prison pipeline' where marginalised

¹¹ Quin, D., & Hemphill, S. A. (2014). Students' experiences of school suspension. *Health Promotion Journal of Australia*, 25(1), 52-58.

¹² Graham, L. (2020) Questioning the impacts of legislative change on the use of exclusionary discipline in the context of broader system reforms; a Queensland case study; *International Journal of Inclusive Education*, 24:14, 1473-1493

and excluded young people are at greater risk of incarceration.¹³ The association between SDAs and antisocial behaviour resulting in prison sentences is well established, both in Australia and overseas. The lack of supervision that occurs following a school disciplinary absence increases the likelihood of students engaging in risk taking behaviour and therefore coming into contact with the criminal justice system.¹⁴ This is particularly concerning for students with disability and Aboriginal and Torres Strait Islander students, given the overrepresentation of both people with disability and First Nations Australians in Queensland's correctional facilities. The long-term costs can be very high. For individual students, they can become alienated from school and engage in behaviours that become 'an entrenched lifestyle'. For society, there are repercussions for community safety and a need for increased expenditure on an ever-growing prison population.

In addition to the personal costs of overusing SDAs, many of the consequences bring economic costs to students, families, teachers and governments alike. This is particularly concerning in the current housing and cost of living crisis where economic impacts are compounded and social inequality is increasing in our community. Recent research commissioned by QAI examined some of the economic impacts of disproportionately suspending students with disability in Queensland state schools. The research found various economic costs, including:

- For school aged students, impacts attributed to suspensions and school disengagement are associated with estimated costs of up to **\$20-24 million per year**.
 - An estimated **\$14.1 million** in lost family income per year; and

¹³ Australian Institute of Criminology (2017) Trends and issues in crime and criminal justice; <https://www.aic.gov.au/sites/default/files/2020-05/tandi531.pdf>

¹⁴ Hemphill S, Broderick D & Heerde J 2017. Positive associations between school suspension and student problem behaviour: Recent Australian findings. Trends & issues in crime and criminal justice no. 531. Canberra: Australian Institute of Criminology. <https://www.aic.gov.au/publications/tandi/tandi531>

- An estimated **\$5.5-\$10.0 million** in youth justice system costs per year (includes detention and community-based supervision costs).
- In the long-term, it is estimated that an average annual income gap of around **\$41 million per year** exists for students with disability and suspensions not attaining year 12 educational levels (given that the research indicates that education is strongly associated with subsequent employment and income rates across the lifecycle).
- Some other non-economic costs were also estimated, including:
 - Up to 440,664 hours of lost teaching time due to managing challenging behaviour in the classroom (which equates to **\$20.1m** per year)
 - Up to 117 additional young people with disability and suspensions expected to have contact with the adult criminal justice system; and
 - An estimated annual cost of **\$2.1 million** of unemployment on life satisfaction for students with disability not completing year 12.
 - Government income support utilisation.

Maintaining attendance and engagement with school is therefore a protective factor and a key incentive for policy reform due to a multitude of reasons. Despite the numerous individual and social costs associated with overusing SDAs, we are yet to see the necessary legislative and policy reform that would ensure SDAs are truly only ever used as a last resort measure.

3. Evidence-based solutions to assist with educational sector reform for students with disability

The numerous personal and economic costs to individuals, families, teachers and the broader community demonstrate the urgent need for reform in this area.

QAI acknowledges the Department of Education's efforts to try and address the overrepresentation of students with disability in SDA statistics. In April 2024, the *Education (General Provisions) and Other Legislation Amendment Bill 2024* was passed by the Education, Employment, Training and Skills Committee. It originally contained modest reforms that would have enhanced the accountability of principal decision-making regarding the use of school suspensions. However, following fierce opposition from the Queensland Teacher's Union of Employees and the Queensland Secondary Principal's Association, among others, the reforms were withdrawn from the Bill to allow for 'further consultation' with stakeholders.

QAI recognises the strongly contested nature of this topic. While some stakeholders assert the need for broad discretionary powers to issue SDAs, others (including QAI) assert the ineffective nature of SDAs in addressing behaviours of concern and highlight the litany of negative repercussions that arise from their use. The assertion that principals require broad discretionary power to issue SDAs to satisfy their duty of care to students and staff is also arguably illogical, given that suspensions are not effective in addressing behaviours of concern and by simply removing the student temporarily without making any other adjustments or changes, students and staff will continue to be 'at risk' as soon as the student returns from the suspension.

All stakeholders seemingly agree, however, that SDAs should only ever be used as a last resort measure. They also agree that teachers and schools require additional resources to deliver an inclusive education system that genuinely ensures students with diverse learning needs can participate fully and which would therefore reduce the prevalence of SDAs for students with disability.

In light of the complexity of this issue and the apparent impasse reached by stakeholders, QAI is of the view that a specific parliamentary inquiry into the use of school disciplinary absences is the only way to move forward. An inquiry of the depth and rigor of that conducted in South Australia in 2020 would enable the Minister for Education and the Department of Education to be presented with all the relevant evidence and to hear from a broad array of stakeholders. It would also present an opportunity to closely examine what works and what doesn't work and to consider the progress made in other jurisdictions which have successfully reduced the use of SDAs while simultaneously reducing behaviours of concern.

QAI therefore urgently supports the *A Right to Learn* campaign's call for a specific parliamentary inquiry into the use of school disciplinary absences in Queensland state schools. We consider this is the only way to ensure evidenced-based solutions are driving educational sector reform for students with disability.

While the Department of Education's recent attempts to address the overuse of SDAs are encouraging, they alone are insufficient to truly reduce the disproportionate use of SDAs for students with disability. Policy guidance in the absence of increased funding and legislated accountability mechanisms will fail to ensure that SDAs are only ever used as a last resort measure.

QAI's urges the Department of Education to move away from the current reliance on exclusionary discipline to address challenging behaviour by instead increasing support across all levels of the education system. We recommend a range of policy and legislative reforms that are based on relevant research, inquiries and the recent Royal Commission into the Violence, Abuse, Neglect and Exploitation of People with Disability (the Disability Royal Commission).

Our recommendations can be broadly categorised as follows (noting that the categories are not mutually exclusive):

- Increase support to students.
- Increase support to teachers.

- Increase accountability of SDA decision-making.
- Increase support to schools.

Increase support to students

1. Improve access to reasonable adjustments for students with disability

Reasonable adjustments are a key determinant of success for students with disability in education and are a fundamental human right enshrined in state, federal and international law, yet they are often overlooked as an evidence-based mechanism for ensuring long-term educational engagement and success. Reasonable adjustments ensure students with disability have access to the necessary support for their general education, social-emotional learning, relationship building, and classroom behaviour. They are highly individualised and must be evidence-based to appropriately support students with disability in the classroom. Despite the availability of processes to request reasonable adjustments, many students experience significant barriers to obtaining the supports that they need.

The resourcing model for reasonable adjustments has recently changed in Queensland. While reasonable adjustments and supports are now available to a greater number of students, QAI understands that the changes have not been accompanied by an increase in the amount of funding available to provide reasonable adjustments to students with disability, meaning that there is now potentially less money available to each student who needs support.

2. Multi-Tiered Systems of Support

The Department of Education should consult with experts such as academics from QUT's Centre for Inclusive Education (C4IE) to develop a plan on how to roll out Multi-Tiered Systems of Support (MTSS) across Queensland state schools.

MTSS is an education-based support structure that focuses on layering support to students to identify those with additional academic, behavioural, and social-emotional learning needs.¹⁵ MTSS prioritizes inclusion through focusing on group learning, providing *all* students (regardless of disability) with a level of support and guidance and aims to be responsive to the changing needs of students.¹⁶

MTSS was a key recommendation of the inquiry into suspensions and exclusions in South Australia. MTSS emphasizes the importance of problem-solving, instruction and intervention in educational environments.¹⁷ MTSS includes three tiers, the first being a universal layer of support designed to provide assistance and instruction to all students. The first tier is also used to identify students requiring additional support.¹⁸ These students are then introduced into the second tier, that focuses on small group learning and instruction. From tier two, the students needing additional, individualized support or guidance are identified. The third tier is intended to only be used sparingly as it takes students away from the classroom.¹⁹

MTSS has the ability to be modified to suit the needs of different schools or cohorts and is highly compatible with other inclusive education models, including Collaborative and Proactive Solutions (see below). For example, students are explicitly taught self-regulation and responsible decision-making skills, as part of a focus on their social-emotional learning needs.

This model has been used successfully in some very challenging public school districts in the United States, such as Chicago Public Schools. On page 111 of the final report on the inquiry into suspensions and exclusions in South Australia, Professor Graham writes:

“After decades of negative impact from “zero tolerance” school discipline policies, which highly respected scholars have tied to increased involvement with the justice system, especially for poor children and children of colour, the United States has engaged in

¹⁵ Linda J Graham et al., “Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian Government Schools,” 2020, pp.140-141.

¹⁶ Ibid pp.140-141

¹⁷ Ibid pp.140-142

¹⁸ Ibid pp.141-145

¹⁹ Ibid pp.141-145

evidence-based reforms aimed at improving school climates, teaching quality and student support, recognizing that educative responses are more productive than punitive responses.

...In November 2014, the US Department of Health and Human Services and Department of Education (2014) jointly issued a statement strongly discouraging the use of exclusionary discipline with young children, due to the known impacts on children's academic, social-emotional and behavioural development....Other reforms have included reducing suspension length (e.g., Chicago, Philadelphia), limiting suspensions for minor infractions (e.g., California, Chicago, Philadelphia), requiring skill-building in-school-suspensions alongside tight approval systems and limiting grounds for out-of-school suspension (Chicago), banning out-of-school suspension for truancy (Arkansas) or eliminating suspensions entirely (e.g., Miami-Dade County Public Schools) (Anderson, 2020; Hinze-Pifer & Sartain, 2018).

While each of these reforms have met with significant opposition from conservative commentators and think tanks claiming that they have resulted in an increase in school violence and serious incidents (Eden, 2019), the empirical evidence shows the opposite. Longitudinal analysis of data from California from the 2011-2012 school year (prior to their school discipline reforms) through to the 2016-2017 school year (several years post-reform), clearly shows a large and significant decline in the number of instructional days lost and a narrowing of the racial gap, attributable to a reduction in the use of suspensions to respond to minor behaviours in all grades (Losen & Martin, 2018). The same study found no evidence that abolishing suspension for minor incidents had resulted in "chaos" and an increase in school violence, as claimed by some commentators (Losen & Martin, 2018). Rather, significant decline in suspensions has been accompanied by improvements in school climate and student academic outcomes.

...Importantly, the recent reforms in US public schools systems did not just involve banning or limiting the use of exclusionary discipline, but rather substituting a non-educative response with evidence-based educative alternatives, including restorative practices, together with the implementation of preventative measures, such as social-

*emotional learning, as part of a Multi-Tiered System of Support (MTSS) framework that traverses academic, social-emotional and behavioural domains and which is designed to improve students' academic achievement, social-emotional understanding, and behavioural interactions.*²⁰

MTSS requires the Department of Education to do things differently for *all* students and to provide additional support for *some* (this being determined by need rather than whether a student belongs to a specified cohort i.e. whether they have a disability or not). It also requires the injection of additional resources, along with modifications to the way students are taught by teachers.

3. Introduce evidenced-based models of support for students with disability

For example, the **Collaborative and Proactive Solutions (CPS) model** developed by Dr Ross Greene views 'challenging' behaviour as a form of communication through which children demonstrate that they are having difficulty meeting expectations.²¹ It is not limited in application to students with disability but is of specific value to this cohort. The framework seeks to avoid the negative characterizations of students with additional support needs by focusing on understanding the reasons influencing certain kinds of behaviour instead of attempting to stop this behaviour entirely.²² In education this model can be used to identify students' lagging skills and/or areas where they need additional support.²³

CPS focuses on crisis prevention as opposed to crisis management through seeking to proactively identify and resolve the issues or challenges a child is facing in order to reduce the prevalence of 'challenging' behaviours.²⁴ To do so, CPS seeks to engage all parties closest to

²⁰ Linda J Graham et al., "Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian Government Schools," 2020, p111-113

²¹ Ross W. Greene and Lives in the Balance, "To End the Use of Restraint and Seclusion, You're Going to Need New Lenses, New Timing, and New Practices: True Crisis Prevention," Lives in the Balance, 2020, <https://truecrisisprevention.org>. pp.1-4

²² Ibid p.2

²³ Ibid p.2

²⁴ Ibid p.3

the issue, including students, teachers, guardians and other caregivers in order to find a well-rounded approach to supporting a child that is consistent both inside and outside of school.²⁵

This approach supports educators' and their classroom management, promotes students' skill development and engagement in problem-solving, and providing cohesive standards of care for students.²⁶

Additionally, the **Circles of Support** model is a visual model for understanding the rings of support that surround a child that advocate for their needs and support their goals.²⁷ This model can be used to better understand all students and their specific support networks but is particularly beneficial for assisting students with disability. In an education setting, where students are exhibiting behaviour that educators wish to address, there is an opportunity to facilitate a formal meeting of a student's circle of support. These meetings should involve parent, caregivers, educators and any other specialist involved in a student's care to collaborate to understand a student's behaviour and develop an action plan to better support them in and out of school. This model is highly congruent with establishing reasonable adjustments for students with disabilities and the Collaborative and Proactive solutions framework. The value of Circles of Support is the bringing together of all those responsible for caring for a student to ensure they are receiving consistent support and that all parties are equally informed about a child's circumstances. Circles of support is a highly individualised way to best support vulnerable student groups, particularly those most at risk of receiving school disciplinary absences, as these communication structures are able to be tailored to best suit a students' personal family and care arrangements.

²⁵ Ross W. Greene and Jennifer Winkler, "Collaborative & Proactive Solutions (CPS): A Review of Research Findings in Families, Schools, and Treatment Facilities | SpringerLink," *Clinical Child and Family Psychology Review*, no. 22 (2019): pp.550-553; Glenys Mann et al., "Developing Productive Partnerships with Parents and Carers," in *Inclusive Education for the 21st Century* (Taylor & Francis Group), pp. 336–353

²⁶ Ross W. Greene and Jennifer Winkler, "Collaborative & Proactive Solutions (CPS): A Review of Research Findings in Families, Schools, and Treatment Facilities | SpringerLink," *Clinical Child and Family Psychology Review*, no. 22 (2019)

²⁷ Resourcing Inclusion Communities, "Circles of Support," 2019.

4. Recognise the intersectionality of students overrepresented in SDA statistics

Develop nuanced policy responses that respond to the intersecting identities of students disproportionately receiving SDAs, preventing the siloing of these students.

Research shows that SDAs are disproportionately given to students with disability, First Nations students and students in out of home care.²⁸ However, these categories of students are not homogenous and students can and do belong to multiple categories. It is inaccurate to simply view their needs through one lens. Many First Nations students, for example, live with disability, and research shows that indigenous students with a disability are most affected by SDAs when students belong to two or more priority equity groups.²⁹ Indeed, the risk of suspension increases with a student's increasing intersectionality.³⁰ The needs of these priority cohorts are therefore complex, requiring nuanced policy responses that respond to their needs holistically and which prevent the siloing of their intersecting identities.³¹

Increase support to teachers

1. Professional development and learning

QAI believes that one of the initial investments in evidence-based alternatives to exclusionary discipline should be focused on expanding the capacity of current educators to provide inclusive educations for their students. This could take many forms but should include the creation of professional development materials, workshops and ongoing information sessions to assist educators in learning the principles of inclusive education and developing the skills to implement these pedagogies in practice.

²⁸ Graham, L.J., Callula Killingly, Alexander, M. and Wiggans, S. (2023). Suspensions in QLD state schools, 2016–2020: overrepresentation, intersectionality and disproportionate risk. Australian Educational Researcher. doi:<https://doi.org/10.1007/s13384-023-00652-6>.

²⁹ Ibid, page 13

³⁰ Ibid, page 19

³¹ Ibid, page 2

Professional development must include learning relevant to the students most at risk of receiving SDAs; that is, how to provide inclusive, culturally appropriate and trauma-informed practice.³² It should also be combined with learning how to deliver evidence-based social-emotional learning through a MTSS model.³³

As recommended by Graham et al:

*“Most importantly, teachers need to be upskilled to engage in **accessible quality first teaching** (Graham & Tancredi, 2023), for many of the students who end up in suspension statistics either have a known disability but are receiving inadequate support and adjustments contributing to an experience of overwhelm, as is often the case for neurodiverse students, or they have an unidentified disability and are receiving nothing but disciplinary consequences for a perceived failure to comply with instructions they not may understand, as in the case of those with a language disorder (Graham & Tancredi, 2020).”³⁴*

2. Consult with teachers

There is a growing number of inclusive education experts throughout Australia who could provide further information on how to support teachers. For example, SINE – School Inclusion Network for Educators - is a national network of education professionals seeking to ensure they have the skills and knowledge to support diverse learners in their classrooms. Among other purposes, the group meets to share information, resources, and best practice ideas on how to deliver education in ways that uphold the principles of inclusive education. SINE is an initiative of All Means All which is the Australian Alliance for Inclusive Education.

3. Invest in additional staff

Funding additional staff has the potential to increase the capacity of teachers in the classroom and to break down many of the barriers students face in relation to accessing an

³² Graham, L.J., Callula Killingly, Alexander, M. and Wiggans, S. (2023). Suspensions in QLD state schools, 2016–2020: overrepresentation, intersectionality and disproportionate risk. Australian Educational Researcher. doi:<https://doi.org/10.1007/s13384-023-00652-6>; page 24

³³ Ibid, page 24

³⁴ Ibid, page 24

inclusive education. Greater funding should go towards dedicated school staff whose role is to work with students at risk falling behind. These staff could include:

- Additional teacher aide roles, including a teacher aid in all prep to year 3 classrooms as a minimum
- Inclusion Officers
- NDIS navigators to ensure students with disability are on the NDIS, and if they have access to the NDIS that they are using their plans effectively to get their needs met. This is not about the NDIS being used in schools, but to ensure that when students with disability step outside the gate, they have appropriate access to supports like therapy and services to enhance their learning and build capacity, which will then result in better outcomes in school.
- Qualified mental health professionals and advocates in all schools to support students with disabilities, their families, and the school to be on the same page about what the student needs to succeed.
- Occupational therapists, speech therapists and psychologists to immediately ensure every student with disability has the adjustments they need to succeed in their learning environment.

Increase accountability of SDA decision-making

1. Make the use of school disciplinary absences a last resort

Amend the *Education (General Provisions) Act 2006* to include a provision that requires the Department of Education to avoid the use of exclusionary discipline unless it is necessary as a *last resort* to avert the risk of serious harm to the student, other students or staff.

This was recommended by the Disability Royal Commission (Recommendation 7.2) which says:

“all States and territory educational authorities... review all instruments regulating exclusionary discipline to ensure they... avoid the use of exclusionary discipline with students with disability unless exclusion is necessary as a last resort to avert the risk of serious harm to the student, other students or staff.”³⁵

Currently, the *Education (General Provisions) Act 2006* permits the use of SDAs at a much lower threshold – that of “best interests”. This directly contributes to the continued disproportionate use of SDAs on students with disability. While Departmental policy may stipulate that the use of SDAs is a last resort measure, this does not provide sufficient accountability given the extraordinary, unfettered discretion currently exercised by principals with regards to SDAs and the minimal level of oversight of their decision-making.

2. Introduce appeal rights for short term suspensions

Legislate an appeal right for all short-term suspensions. All decisions to issue a suspension, whether the suspension is for 1, 5 or 20 school days, should be appealable. This is because SDAs remain on a student’s record and can negatively impact their enrolment applications at other schools, not to mention the significant negative consequences they bring for students, families and the wider community.³⁶ An inappropriate short-term suspension, regardless of the total number of days for which a student has previously been suspended, should therefore have an avenue for merits review.

3. Enhance accountability over repeat and multiple suspensions

Limit the number of suspensions a student can receive within a prescribed period of time before a principal must obtain approval from the chief executive to issue another suspension. Australian best practice standards require principals to seek approval from the Department

³⁵ Royal Commission into Violence, Abuse, Neglect and Exploitation (2023) *Inclusive education, employment and housing – summary and recommendations*. Final Report Volume 7, page 13

³⁶ See [QAI and ATSIL’s report for the Queensland Human Rights Commissioner](#), for more detail.

before issuing multiple suspensions to the same student³⁷, yet this is not currently required in Queensland. This has also been recently recommended by the Disability Royal Commission (see recommendation 7.2).

This change, among others, would provide more oversight of the decision-making practices of individual principals. They would lead to better reporting and would help to identify differences between schools regarding SDAs, thus enabling early identification of inequitable and inappropriate use of SDAs for certain groups of students, such as students with disability, who typically receive repeated suspensions to no effect.

4. Ensure students have access to educational materials

Amend the *Education (General Provisions) Act 2006* to include a provision that ensures students with disability have access to educational materials appropriate to their educational and behavioural needs while subject to exclusionary discipline. This was recommended by the Disability Royal Commission (see recommendation 7.2).³⁸

Currently, section 284 of the *Education (General Provisions) Act 2006* only requires principals to take ‘reasonable steps’ to arrange for a student’s access to an educational program during a suspension. This legislative obligation must be stronger.

5. Increase procedural fairness

Amend the *Education (General Provisions) Act 2006* to include a provision that reduces the timeframe in which the Department of Education has to respond to submissions against suspensions and related matters to 20 school days after the Department of Education receives the submission. This would bring this timeframe into alignment with that afforded to similar SDA decisions.

³⁷ Government of South Australia Department of Education, “Suspension and Exclusion Information for Parents and Carers”; Victoria State Government Training and Education, “Procedures for Suspension”; Department of Education WA, “Requirements Related to the Student Behaviour in Public Schools Policy.”

³⁸ Royal Commission into Violence, Abuse, Neglect and Exploitation (2023) Inclusive education, employment and housing – summary and recommendations. Final Report Volume 7, page 14

Further, include a provision that requires a principal to obtain input from a student prior to an SDA decision being made. Currently, this is required by Departmental policy but QAI is aware of instances where this hasn't happened in practice and there remains no accountability mechanisms or legal standing to assert this right in situations where it isn't been upheld.

The inquiry into SDAs in South Australia specifically recommended that legislation:

“Explicitly require that a principal of a school must consult students using accessible language – in a non-prejudicial and non-interrogatory manner – to enable students to put forward their account in relation to an incident for which a disciplinary response may be considered.”³⁹

QAI recommends that Queensland's legislation adopts a similar provision.

6. Introduce an independent complaints and appeals process

Establish an independent complaints process and clarify the decisions for which an external right to review at the Queensland Civil and Administrative Tribunal (QCAT) applies.

QAI is aware of significant inconsistencies and inadequacies in the Department of Education's current complaints and appeal processes. Complaints are not currently reviewed by an independent entity. Complaints and appeal processes can also be extremely lengthy and cumbersome for students and families to endure, not to mention confusing. For example, an internal review of a suspension can take up to 40 school days to complete, during which time the student may not be accessing any education (with the approach differing between regional offices). Permanent exclusion decisions can be reviewed initially and then annually, while a refusal to enrol decision can be reviewed externally by Queensland's Civil and Administrative Tribunal (QCAT). In the legislation, there is a right to external review for a 'review of a review decision'⁴⁰ but it is very unclear which decisions this right applies to. It is

³⁹ Linda J Graham et al., "Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian Government Schools," 2020, page 14

⁴⁰ Education (General Provisions) Act 2006 (Qld), s 394.

not listed as applicable to all SDA decisions according to information provided by the Department of Education on their website, yet it is seemingly provided for in legislation.

An independent oversight body that would ensure education providers are meeting their legal obligations and which would investigate, monitor and resolve complaints has also been recommended by Children and Young People with Disability Australia (CYDA).⁴¹ It was also recommended by the inquiry into SDAs in South Australia.⁴²

7. Introduce a right to representation

Ensure all students with disability who receive an SDA are automatically referred to an individual advocate.

All students with disability who receive an SDA should be automatically referred to an individual advocate. The advocacy service is to provide independent support and advice to students and families to help them navigate complaints and appeal processes. This automatic right to representation will help to ensure procedural fairness and will help to address the power imbalance between principals, schools and students and their families.

8. Monitor the use of informal exclusions

We know that informal exclusions (or ‘take homes’) can progress to longer, more formal absences. An informal exclusion may occur when a teacher phones a student’s parent and requests that they take their child home. As removing a child from school fails to address the underlying issue resulting in the behaviour of concern, these informal exclusions tend to happen again. Before long, the student receives a suspension, perhaps initially short-term

⁴¹ Children and Young People with a Disability (2023) *CYDA’s submission to the Senate Education and Employment Reference Committee’s Inquiry into “The issue of increasing disruption in Australian school classrooms.”*, page 3

⁴² Linda J Graham et al., “Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian Government Schools,” 2020, p18

and then long-term, and subsequently experiences more severe suspensions and exclusions over time.⁴³

The Department of Education should therefore be required to collect and publish data on the use of informal exclusions. This could be added to publicly available information on SDAs.

9. Data collection

Without sophisticated data that accurately captures key demographic information (including which students are receiving SDAs, for which behaviours and how often), effective policies that successfully reduce the prevalence of SDAs will remain elusive.

For example, increases in the number of incidents reported may give the impression that there are very many ‘badly behaved students’ who are increasing in number, when the reality could instead be that there is a much smaller number of very vulnerable students receiving very many SDAs.⁴⁴

Disaggregated data on the use of SDAs must therefore be collected and made freely accessible to the public. This includes tracking the use of informal exclusions, the number of SDAs versus the number of students who receive an SDA, the intersectional characteristics of the students receiving SDAs, as well as the frequency with which some students receive multiple and repeat suspensions.

We recommend a requirement for the Department of Education to provide this information in an annual report to the Minister. The report should also include data on the types of disabilities held by students who receive SDAs as well as the relevant NCCD adjustment categories, and the reason for the SDAs.

⁴³ Graham et al. (2020). *Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian government schools: Final Report*. The Centre for Inclusive Education, QUT: Brisbane, QLD

⁴⁴ Graham, L.J., Callula Killingly, Alexander, M. and Wiggans, S. (2023). Suspensions in QLD state schools, 2016–2020: overrepresentation, intersectionality and disproportionate risk. *Australian Educational Researcher*. doi:<https://doi.org/10.1007/s13384-023-00652-6>, page 2

10. Develop inclusion scorecards

Transparency and accountability will be critical to the success of any reforms associated with the use of SDAs. QAI recommends the mandatory use of inclusion scorecards for all schools to monitor the implementation of inclusive education practices and to prioritise the reporting of outcomes for students with disability. Scorecards could investigate and disseminate information regarding SDAs, attendance, reasonable adjustments, intersectional representation of vulnerable student populations, student voice feedback, family feedback and educational outcomes to the public.

Scorecards would assist in identifying schools or regions that are underperforming on these metrics and would allow governments to direct resources where they are most required. Specific focus should be placed on establishing targets, such as the target to halve the number of suspensions of students with disability within five years, as called for by the *A Right to Learn* campaign in Queensland.⁴⁵ The grading system used on the scorecards should be transparent and publicly available and schools should be independently assessed.

11. Establish an independent board

We recommend the establishment of an independent board to oversee the implementation of all reforms regarding SDAs to ensure they are working in the best interests of students. The board would then provide advice to government on areas for improvement and highlight areas that are working well. The board should consist of people with lived experience of disability and other priority cohort groups, including First Nations students and students living in out of home care, in addition to any standardised qualification requirements.

12. Review the criteria for issuing SDAs

Review the criteria for issuing SDAs and reduce the number of permissible reasons for issuing an SDA, including banning the use of SDAs for minor incidents.

⁴⁵ <https://www.arighttolearn.com.au/our-asks>

Stricter suspension criteria that reduce the number of permissible reasons for suspension including bans for minor incidents, as well as a significant reduction in permissible length (e.g. 3–5 days maximum) in line with international best practice is critical.

Increase support to schools

1. Fully fund all state schools

QAI notes that Queensland is reportedly not meeting its education funding obligations to fund 80% of education costs alongside the Commonwealth Government's 20% contribution.⁴⁶

Insufficient funding in schools means that teachers are ill-equipped to support students with diverse learning needs and prevents teachers and schools from providing an inclusive education, as per Queensland's obligations under Australia's Disability Strategy, the *Human Rights Act 2019* (Qld) and the Convention on the Rights of Persons with Disabilities (CRPD).

The consequences of insufficient funding, including insufficient funding for reasonable adjustments for students with disability, are significant. In failing to fund and facilitate accessible teaching strategies and learning environments, students with disability are pathologized and seen as a problem. They are blamed for behaviour that occurs because of factors that lie beyond their control. Consequently, negative attitudes towards disability remain, entrenching stigma and resulting in discriminatory practices.

Even when reasonable adjustments are provided, the allocation of resources can fail to provide what is needed for a student with a disability. Money might collectively be spent on equipment or additional teacher-aid hours, however the individual support needs of the student can remain unaddressed.

While the introduction of the National Disability Insurance Scheme (NDIS) has improved access to support for many people with a disability, its complex funding structure and its

⁴⁶ McMahon, A. (n.d.). *Fully Fund Queensland Schools*. [online] Amy MacMahon - Greens MP for South Brisbane. Available at: <https://www.amymacmahon.com/schools> [Accessed 26 Nov. 2023].

interface with state-based services, such as Education, has brought a level of complexity that can perversely end up preventing the person with disability from accessing the help they need. For example, QAI is aware of instances where students have been told by their school that they must use NDIS funding to access certain supports during school hours. Often, students will not have sufficient NDIS funding to facilitate this. In instances where they do, it can mean that the student and their family have reduced access to support outside of school hours.

Inadequate funding in state schools also means that students with disability struggle to receive the reasonable adjustments and supports they require in the classroom. This can lead to students with disability being inappropriately placed on part-time education plans or simply asked to go home early because they are told by the school that “there is no more teacher aid funding available.”

The Queensland government must therefore commit to fully funding Queensland state schools by meeting its 80% funding contribution of the National Schooling Resource Standard.

2. Develop a roadmap to inclusive education

Support schools to deliver inclusive education by contributing to the development of a *National Roadmap to Inclusive Education* as recommended by the Disability Royal Commission. This Roadmap would outline the outcome measures, targets, actions and milestones for achieving an inclusive education system for Queensland.⁴⁷

The Australian Alliance for Inclusive Education defines inclusive education as:

“...a legally supported, evidence-based way of delivering education that recognises the individual characteristics of all students, offers pedagogic alternatives that cater for the diverse educational needs of each child and respects the right of every child to be a part of

⁴⁷ Royal Commission into Violence, Abuse, Neglect and Exploitation (2023) Inclusive education, employment and housing – summary and recommendations. Final Report Volume 7, Recommendation 7.13, page 23

their communities. It is also a fundamental human right of the child recognized in a range of international human rights instruments and treaties.”⁴⁸

Individualised teaching and solutions are fundamental to the provision of inclusive education. Inclusive education is about recognizing the right of every young person to be welcomed as a valued learner and involves adapting learning environments and teaching approaches to ensure the young person can participate in education on an equal basis with others.⁴⁹

The Committee on the Rights of Persons with Disabilities provides guidance as to what this right means in General Comment number 4⁵⁰. While not legally binding, it is nonetheless an authoritative interpretation of Article 24 and says, among other things, that inclusive education requires a transformation in culture, policy and practice that involves strengthening the capacity of the education system to reach out to all learners.

It’s not just about students with disability being physically present in mainstream education. It’s about students with disability enjoying all aspects of school, including building relationships with peers and participating actively in all aspects of school life.

There is extensive research that demonstrates the efficacy of inclusive education and the many benefits it brings, not just to students with disabilities but to all students in the classroom. For example, a systematic review of 280 studies from 25 countries established clear and consistent links between inclusive education settings and substantial short and long-term benefits for students with and without disabilities.⁵¹

Change must therefore occur at the school level as well as the individual student and teacher level. This will ensure school-wide practices are compatible with inclusive education.

⁴⁸ <https://allmeansall.org.au/for-parents/>

⁴⁹ Australian Coalition for Inclusive Education, “*Driving change: A Roadmap for achieving inclusive education in Australia*”, February 2021, p4

⁵⁰ Committee on the Rights of Persons with Disabilities, General comment no. 4 (2016) on the right to inclusive education, 16th session, UN CRPD/C/GC/4

⁵¹ Hehir, T., Grindal, T., Freeman, B., Lamoreau, R., Borquaye, Y., & Burke, S. (2016). A summary of the evidence on inclusive education. ABT Associates. ERIC. http://alana.org.br/wp-content/uploads/2016/12/A_Summary_of_the_evidence_on_inclusive_education.pdf

Conclusion

The significant economic costs associated with suspensions for students with disability, in addition to the numerous personal costs to individuals, families, and teachers, further demonstrates the urgent need for reform in this area.

We need alternative solutions to SDAs that effectively address behaviours of concerns whilst keeping students engaged in the education system. We need to change our language around discipline, by ceasing to ‘punish’ students and ‘supporting’ them instead.

When the underlying reasons for a suspension are not effectively addressed, a vicious cycle of repeat suspensions can occur, with huge costs to students and a tendency to reinforce the behaviours for which it was issued.⁵²

There are better alternatives that are more consistent with the observance of the human rights of Queensland school students. The overuse of a punitive approach instead of a greater use of more supportive models is neither necessary nor proportionate. The lack of oversight of such practices and the absence of detailed data further suggests a failure to properly consider and adhere to the rights of the child.

We need to better understand why certain students, including students with disability, are being disproportionately excluded from schools and realise the broader implications of these practices. This is vital if Queensland is to successfully ensure that all students have access to an education that meets their needs and that certain students are not unfairly and disproportionately disadvantaged in the realisation of this most fundamental of human rights.

⁵² Wiley et al., 2020, as cited in Graham, L. J et al (2023) *Suspensions in QLD state schools, 2016-2020: overrepresentation, intersectionality and disproportionate risk*. The Australian Educational Researcher, <https://doi.org/10.1007/s13384-023-00652-6>