

Submission to the Disability Royal Commission

Association for Children with Disability (VIC)

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Introduction

ACD works with families that are battling the education system every day. While we can help families to advocate, the system should not be so hard to deal with.

Our submission shares the knowledge and insights of parents of children with disability who have navigated the education system and advocated for their children to receive a good education.

Unfortunately, the issues we talk about in this submission are not new.

Over the last decade dozens of inquiries have covered the same ground. Studies, evidence and reports all show what needs to change to make things better for students with disability and their families.

About ACD

ACD is the leading advocacy service for children with disability and their families in Victoria. We are a not-for-profit organisation led by, and for, families of children with disability.

For more than 40 years we have been advocating to improve the lives of children with disability and their families.

Our vision is that children with disability and their families have the same rights and opportunities as all children and families.

Our evidence base

Our work is embedded in our own experience. More than 60% of our staff and board are parents of children with disability.

We have a network of 20 volunteer Community Champions who are all parents of children with disability.

We provide individual advocacy support to 1,500 families a year through our Support Line. Education is the number one issue raised by families.

We run 100 online workshops each year. Workshops relating to advocating at school book out.

The families who call our Support Line and attend our workshops reflect the diversity of the Victorian community.

We reach vulnerable families by providing secondary consults as well as convening a number of community of practices for statewide family disability practitioners.

This submission is based on our real-life knowledge and understanding of the Victorian education system.

Speaking up for children

We meet regularly with bureaucrats, MP's and Ministers, particularly at a state level, to highlight the issues facing children with disability and their families.

ACD represents children with disability and their families on a number of advisory groups, including:

- DET Disability Inclusion Advisory Group
 - Disability Act Reform Advisory Group
 - Autism State Plan Advisory Group
 - Best Start Best Life Ministerial Taskforce
 - Roadmap to Reform Ministerial Advisory Group (implementation committee)
 - Children and Youth Research Hub Advisory Group
 - Victorian NDIS Community Advisory Council.
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1. Lack of education

1.1 Gatekeeping

Early childhood

In 2022 ACD had a 350% increase in calls about being denied enrolment in early childhood education compared with 2019.

Families reported child care and kindergartens gatekeeping on the basis of: we have our quote of children with disability, we cannot meet your child's needs, maybe your child would be better off with more time at home with mum.

Childcare centres report that the Australian Government Inclusion Support Program funds additional educators at \$23 per hour which leaves the centre out of pocket when they enroll children who require the support of an additional educator.

This financial disincentive is a real barrier to young children with disability accessing early childhood education.

School

Legally a Victorian government school cannot refuse to enrol a student who lives in its zoned area. However, schools routinely suggest that the local mainstream school cannot provide the support a child needs and that they would be much better going to a specialist school.

There are indications that gatekeeping is getting worse. ACD saw a 175% increase in calls from families about gatekeeping in 2022 compared with 2019.

Families with a student with a disability do not have time to complain to the Department of Education about schools discouraging enrolment school because they are too busy trying to find a school for their child. It is upsetting and disheartening to be rejected from a school before you have even started attending it. Generally, there are no consequences for schools who refuse or discourage students with disability from attending their schools.

While there are ways for families to enforce their rights under the Disability Discrimination Act and the Equal Opportunity Act, it is stressful and time consuming to do this.

Another form of gatekeeping is rejecting a student with disability on the basis that they live outside of the designated enrolment zone, while accepting enrolments from non-disabled students from outside the zone.

1.2 Lack of reasonable adjustments

There is a general lack of quality Individual Education Plans (IEP) and reasonable adjustments provided by schools for students with disability.

This means that students with disability are not able to access the same learning opportunities as other students. This happens both inside the classroom as well as during breaks, excursions, camps and work experience.

Reasonable adjustments are required under the national Disability Standards for Education 2005. These standards are often ignored by schools.

Where a school fails to put in place an IEP, reasonable adjustments and support, it is likely that the child's experience and learning outcomes will be poor.

Example of reasonable adjustments are available on the National Consistent Collection of Data website and the Victorian Department of Education website but actually getting schools to put them in place can be a major battle for families.

Learning support

During learning from home due to COVID restrictions parents got a unique opportunity to see the teaching and curriculum adjustments that were made for their child's learning.

Overwhelmingly parents reported that even straightforward adjustments were not being made.

Children with developmental delay and intellectually disability were given basic "time filling tasks" while other students had dedicated literacy and numeracy activities to undertake.

Opportunities to demonstrate knowledge in different format, such as a verbal report rather than written, were rarely offered.

Students with low vision were not provided with materials in accessible formats.

Students were not given assistance with understanding what the task was and when it was due.

Behaviour support

Lack of appropriate support can lead to behavioural issues at school. Families and allied health therapists often share with the school what supports or adjustments the student needs, but the school fails to do anything about them. For some students with disability a lack of the right adjustments can escalate over time and lead to major distress, causing the student to disrupt a classroom or behave in a concerning way.

To be told what a child needs and to consistently do the opposite until the child is not able to regulate is a form of abuse. Some families are concerned that schools do this on purpose to encourage the family to withdraw the student from the school.

Toileting support

Lack of reasonable adjustments relating to toileting is a significant issue for many students with disability. Mainstream schools actively discourage enrolment from students who are unable to toilet themselves. Families have reported to ACD that they are required by their child's school to be available throughout the day to assist with toileting.

Some students with urinary urgency cannot judge that they need to go to the toilet until the last minute. This means they rush out of the classroom to get to the toilet without asking permission from the teacher. They then get a consequence for doing this.

For some students using a specific toilet at school is a crucial part of how they cope. But schools routinely have quite specific rules around which students can use which toilets and ban students from using toilets during class time as they grapple with issues such as other students vaping. These rules can have a disproportionate impact on students with disability. There is no reason why adjustments cannot be made for students around toileting who need them. But schools are very poor at dealing with this issue. Clearly these situations create a lot of stress for students and can also lead to or increase bullying by their classmates. Good planning and the right adjustments and resources can address this.

Transition support

Good planning can ensure that a student's major transitions through the education system are well supported. When these transitions do not go well, it reinforces to the student, the family, their peers and educators that people with disability cannot achieve things.

A common sentiment from teachers at major transition points, is "I want to get to know the student first, before I hear from families or specialists about what might be needed." This attitude reflects a lack of understanding that for many students with disability proactive planning and reasonable adjustments, particularly around transitions, are essential for success. It also undermines the knowledge families and specialists can bring to the table. This is a form of neglect.

Inclusion of Deaf and hard of hearing students

Deaf and hard of hearing students face particular issues accessing reasonable adjustments and supports. It is very difficult to access qualified Auslan interpreters. There is a lack of reasonable adjustments around captioning or providing education materials in different formats. Often it is assumed that when a child has a cochlear implant they can hear in the same way as other students. This is not the case and adjustments still need to be made and extra support is likely to be required.

Excursion and camps

Excursions and camps are another tough issue for students with disability and their families. Throughout the school year ACD hears from families whose student has been looking forward to going on a school camp or excursion only to be told the day before the event they cannot attend.

This is very upsetting for students with disability and their family. It also reduces their life experiences and keeps them segregated from their classmates. Some families can afford to attend the activity with their child so they can participate. But many families cannot and the child misses out. This is cruel and unfair. ACD acknowledges that good planning and supports cannot happen without resources. But it seems the default position for many schools is simply to exclude the student.

"Even though he had a teacher's aide, the school would not let my son go to any excursion or camp unless I went too. I had to make the choice between him missing out or having to take time off work," parent.

"It took hours and hours of work and time with the school to get the bare minimum in place. It was exhausting." Parent.

1.3 Lack of collaboration

Good plans, adjustments and supports for students with disability are not possible unless there is good communication and collaboration between families, students and schools.

This collaboration may also include student's NDIS funded allied health therapists or health specialists.

In Victoria, the process to enable good communication is based around a Student Support Group (SSG). The SSG should meet each term and include everyone involved in the student's education, as well as the student. Unfortunately, SSG meetings often do not happen at all, or not as frequently as they are supposed to.

ACD hears examples where SSG's are scheduled for 15 minutes. Even if a longer meeting is held there is often no agenda, minutes or updated IEPS. Teachers bringing lists of all the things the student has done wrong over the past term is also a distressingly common practice....

ACD is consistently told by families that schools do not communicate with them very well and when the family makes suggestions to the school about what will help situations that arise, they are ignored.

ACD runs popular workshops for families on understanding and participating in Student Support Group meetings. These are funded by the Victorian Department of Education. The feedback from families attending these workshops is that they had no idea of how SSG's were supposed to operate.

"ACD introduced me to new words, documents, plans and disability rights. They spoke to me about a Student Support Group. Apparently, we should've been having Student Support Group meetings every term. My son's school had no idea they had to sit down and set clear expectations around behaviour and support. There was just such a lack of knowledge." Parent

"The school treats us like we have no idea and that they know best," parent.

1.4 Overuse of informal exclusion, suspensions and expulsions

Suspensions and expulsions are the most serious consequences schools can impose on students.

Students with disability are over-represented in suspensions and expulsions but they also experience informal exclusion such as when they are told they can only attend school for a few hours a day, or when they're repeatedly sent home early.

Constantly limiting a student's attendance has a devastating impact on a child's education and on the family as a whole. Families struggle to undertake paid work when the school expects them to be "on call".

Informal exclusion is often missing in the data about students with disability because schools record the student's absence as parent choice. ACD has seen a 175% increase in calls about informal exclusion in 2022 compared with 2019 data.

The exclusion is generally in response to the student demonstrating behaviour that is nearly always linked to the school not providing adequate or timely adjustments or support. The student is blamed and punished for the school's failure to provide what is required.

Students with disability experience higher rates of bullying, including being physically attacked by other students. ACD has worked with a family where a fourteen-year-old boy with autism experienced constant bullying and violence from other students at his secondary school. He was suspended for retaliating when another student put him in a headlock.

We also receive repeated complaints about situations where a student with disability receives a more serious consequence compared with students without disability who have behaved in the same way.

In 2022 ACD assisted more than 100 families whose children were facing suspension or expulsion.

The majority of expulsion cases ACD was involved with did not result in an expulsion because the school could not demonstrate they had put in place appropriate behavior support.

CASE STUDY Starting Prep

Our son Liam's first year of school was full of ups and downs.

As a family, we started with high hopes, but Liam struggled with the transition to school. He started lashing out at other children and his teachers because he was unable to regulate his emotions.

The school made us feel like it was our fault and we felt helpless watching the incident reports start flowing in. It was stressful, because a call from the school meant we needed to leave work early to pick him up and this put our jobs on the line.

We felt crushed and wondered if we should keep Liam home, but we wanted him to be part of the school community and enjoy everything that it involved. So, we kept turning up and going to all the school events.

Our first Student Support Group (SSG) meeting didn't go very well. We were shocked by how the school spoke about Liam and we felt he was a burden on the teacher and education support staff.

The school wanted to limit Liam's time there, have him see a therapist at school (which he didn't like) and remove him from the classroom every time there was an issue.

One day, Liam came home and hid his school bag because his teacher would put copies of the incident forms in there for us. Liam knew that these made us upset, and he was scared that he was 'in trouble', as he didn't fully understand what they were.

After this happened, we asked that incident forms be emailed to us instead. They kept arriving, even for minor behavioural issues. It was clear to me that Liam was experiencing high anxiety – and no one was understanding it.

I was determined to get a better outcome for Liam at the next SSG meeting with the school. Firstly, I made sure our occupational therapist (OT) could attend the meeting, and then I was in touch with the ACD Support Line. The advice ACD gave me was very helpful.

The Principal, Vice Principal, teacher, Education Support Officer, a representative from the Department of Education, OT, the ACD Support Advisor, as well as myself and my husband all attended the meeting. It was daunting, but then we started to agree on some reasonable adjustments.

We agreed that Liam would attend school for two full days and three half days a week. He was allowed to arrive in the classroom 10 minutes before everyone else to settle in, and he would work with the Education Support Officer each day.

Very slowly things started to improve. Liam has always been an outgoing, lively and friendly boy, which helped him to make friends easily. His teacher, the Education Support Officer and the Vice Principal all attended professional development workshops and began to use the strategies they had learned. The school also committed to doing an Individual Education Plan and a Behaviour Support Plan.

Things were looking brighter but there were still setbacks. One day, after an incident, Liam wasn't allowed to go to the Father's Day Stall with the rest of his class. Another time, I had to speak to his teacher about not making him sit on his own in a separate area of the classroom all the time.

We have had to work so hard to advocate for our son, but by continuing to work patiently with the school, things have improved.

2. Treated differently

2.1 Restrictive practices – restraint and seclusion

ACD hears from families with students who have been held down or locked in a room alone. Some students are placed in a room by themselves on a routine basis or sent to other parts of the school to be by themselves.

There is very rarely a comprehensive Behaviour Support Plan in place. Where restraint or seclusion is used the follow up protocols are often ignored.

There is a significant lack of teacher training around positive behaviour support or how to de-escalate a situation.

2.2 Fortress culture

Specialist schools have considerably less parental involvement and often less engagement with external services. This partly because many students catch the school bus to school and so parents are not there at drop off and pick up.

Some families talk about a fortress culture which has gotten worse since COVID, when schools legitimately had to restrict the number of people on site. Despite COVID restriction ending some schools continue to discourage parents from being at the school.

As the Royal Commission into Institutional Child Sexual Abuse showed, there is a protective layer for children when they are in environments where there are parents and other adults around who do not work at the particular institution.

2.3 Mistreatment by other students

Various reports indicate that bullying of students with disability is endemic. In 2022 ACD received a 300% increase in calls about bullying compared with 2019.

Bullying is difficult for any student, but for a student with disability it can destroy their confidence and lead to severe mental health issues, including suicidal thoughts.

Physical or sexual assault from other students with disability occurs in both mainstream and specialist schools. A lack of identifying the risks and support needs of students coupled with a lack of safety planning and appropriate supervision can result in serious incidents that are devastating for all involved.

ACD has been involved in a number of cases where critical incidents (involving emergency services) have been minimized by the school, with processes such as incident reports and SSG meetings not occurring until we were actively involved.

2.4 Low expectations of students with disability

Unfortunately, schools reflect the community's level of awareness and understanding about disability. Generally, disability is seen as a negative rather than a strength and people with disability are sometimes considered less than human.

These attitudes result in practices such as students with disability are not being provided with modified learning activities based on the curriculum, but instead being given a basic activity.

Assumptions are made about students with disability, resulting in poor career education, a lack of work experience and limited sexual health education.

Students with disability are also routinely not offered reasonable adjustments that would enable them to complete VCE or the Victorian Pathways Certificate. All of these things reinforce low expectations and inequity rather than address them.

"My daughter went to a special primary school and the activities she was given were very basic. When she went to a special secondary school, the school had much higher and better expectations for their students and really helped the kids build on their strengths. She has come a long way and much further than I thought was possible."
Parent.

3. Structural disadvantage

3.1 Funding arrangements

Victoria is moving to a new process for working out which students qualify for individual funding based on functional need.

The Victorian government has also committed almost \$0.6 billion in new funding over 5 years to provide increased support for students who do not qualify for individual funding.

This is a step in the right direction, but it is too soon to see if the new approach improves education outcomes for students with disability.

3.2 Education support staff

The vast majority of individual funding is spent on education support staff or “aides”. Many families are desperate for their children to get help from an aide because that is seen as the only type of support that is available.

However, education support staff do not ensure good educational outcomes. At worst they can be a form of babysitting, with the student getting far less time from the teacher. They can also create segregation between students with disability and their peers.

Education support staff are not required to have any formal qualifications and teachers are not trained in how to best use aides to support good educational outcomes.

3.3 Physical space

Investment in new schools has been a feature in Victoria. However, the new campuses do not always fully cater to students with disability, particularly autistic students.

Large style rooms create major sensory issues. Noise reduction is rarely incorporated into school design.

Essential physical access such as ramps is not provided to all school spaces and parents of children who are wheelchair users are often required to transport their children on camps and excursion.

3.4 Complaints

The complaint system remains very complex.

Many families do not make complaints against schools because they are worried that the school will make life more difficult for their child when they are at school.

If a family does want to make a complaint, firstly they must complain to the school, where Principals have the final say about how a complaint is resolved.

If the family wants to pursue the complaint they then have to go to the regional division of the Education Department. If the complaint remains unresolved, a family might then complain to an external body such as the Commission for Children and Young People or the Victorian Human Rights and Equal Opportunity Commission.

All of these processes take up considerable time and emotional energy. Meanwhile families worry about the impact on their student and retribution by the school.

3.5 Teacher education and training

Teacher education and training around disability inclusion remains inadequate and low levels of basic disability awareness persist in Victorian schools.

Currently, teacher registration includes a requirement to undertake professional development in disability. This is a good start, but it is unlikely to equip teachers with the skills they need to provide inclusive learning environments for students with disability.

Teachers need training on unconscious bias around disability, leadership development on inclusion, training on the Disability Standards for Education 2005 and students' rights.

Specific training on how to best use aides would also be beneficial.

It should be noted that training can only achieve results where it is supported by a strong culture of inclusion. Where inclusion is expected of everyone in the school, and not seen as something extra that a particular teacher is doing, the professional development is much more likely to achieve good results. Teachers should not be expected to try and change the culture on their own. They should have ongoing access to expertise and support on how to create inclusive learning environments.

4. The importance of advocacy

Support and advocacy for families dealing with the education system remains crucial.

ACD is proud of the work that we do and the difference we make for students with disability and their families. We adopt an empowerment model to help families understand their child's rights and how to realise them.

We provide plain language guides on how to deal with the education system.

82% of callers report an improvement in their child's situation following our advocacy support.

The 2020 Review of the Disability Standards for Education found that 'the common theme underpinning successful outcomes for students with disability is the importance of proactive, supportive and early engagement by education providers, strong communication between providers and families, relationships built on respect, and the value placed on the individual student's ability and viewpoint'.

ACD helps to ensure that these things happen.

"A friend told me about ACD and I called their Support Line. I spoke to a Support Advisor who did two amazing things for my family. Firstly, she empathised with me and justified my concerns. It was a relief to have that validated by someone who knew the school system and it helped me talk more openly about my 17-year-old son. Secondly, she gave me practical information about my son's rights and told me what the school's obligations were." parent

ACD's understanding of the school system is amazing. They allowed me to feel supported within this maze

5.A better education

5.1 Amplifying what works

We asked families what are the key factors when things are going well with their child's education. Our recommendations focus on amplifying what works.

1. Leadership that makes a difference

A great early childhood leader or school Principal can make the biggest difference.

Great leaders foster a culture of inclusion, promote communication between staff and families, learn from their mistakes, support professional learning for all staff, and have high expectations for students with disability.

There are leaders with these skills across our education system, but we need more of them. A focus on these skills needs to be valued and embedded into leadership programs.

2. Effective education support staff

Most students with disability receive assistance from education support staff.

They can provide excellent support, but they cannot replace teachers.

Too often, they have limited training and receive limited direction.

These staff need more professional development and teacher-led direction.

Teachers need training on how to work effectively with support staff.

3. High expectations

Families see how children can achieve what no one thought was possible.

Low expectations limit options. We need to focus on what children can do and raise expectations for both individual students and the system as a whole.

High expectations and transparent outcomes must be embedded.

4. Planning for success

Families raising children with disability constantly plan ahead to give children the best chance of success.

Being proactive is the best way to be inclusive and meet their disability needs.

Good planning is central to the rights of students with disability. It involves open communication with families and students and helps address changing disability needs.

It builds understanding and transparency about how individual funding is being used.

Good planning results in effective reasonable adjustments that are essential to helping students succeed. Teachers need more time to plan for success.

5. More professional development for teachers

Families see improvements when educators and teachers undertake professional development.

While disability-focused training has increased, there are still significant gaps.

We need more strengths-based professional development opportunities that contribute to teacher accreditation.

6. Full-time education for all

Families are devastated by the increase in the informal exclusion of students from early childhood education and schools.

COVID has presented extraordinary challenges, but its legacy cannot be that students with disability are continually placed on reduced hours or sent home early. There are also students with disability who have struggled to return to school.

We need a focus on students who are excluded and support their return to full-time education.

7. A sense of belonging

Children do best when they are welcomed and celebrated.

Disability is a form of human diversity, but like most adults, teachers often don't have the skills or confidence to talk openly about disability and build understanding of difference.

Victoria has been a leader in promoting safe schools for LGBTIQ+ students.

We need similar student-led approaches to create schools that welcome and celebrate children and staff with disability.

8. More advocacy support

Demand for advocacy support from students and families has never been greater, with requests increasing by almost 85% over the past four years.

Advocacy is a cost-effective approach that ensures students' rights are upheld, increases accountability, and improves education outcomes.

ACD provides advocacy support to families across Victoria and our reach reflects the diversity of the Victorian community.

Additional investment is needed to meet demand for advocacy support.

5.2 National Priority

To really shift the dial on education outcomes for students with disability it needs to be a national priority with clear targets, transparency and accountability.

Background reading

Commonwealth Department of Education, Skills and Employment, Review of the Disability Standards for Education, 2005, Commonwealth of Australia, 2020.

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