



**Rob Stokes**  
Minister for Education

Mr David Blunt  
Clerk of the Parliaments  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Mr Blunt *David,*

Please find attached the Government response to the report entitled *Education of students with a disability or special needs in New South Wales* by General Purpose Standing Committee No. 3 for tabling in the Legislative Council.

If you have any further questions regarding the attached response, please contact Kim Withers on

Yours sincerely

**Rob Stokes**  
**Minister for Education**

*21/03/18*

*Received on behalf of  
the Clerk at 4.18pm  
Wednesday 21 March 2018*

## INTRODUCTION

The NSW Government supports all the recommendations of the Parliamentary Inquiry into education for students with a disability, and is already acting to address them.

After considering the Committee's report, the Government is supporting all 39 recommendations, the vast majority in full.

The Committee's finding of many examples of excellent practice in the NSW public school system is welcome. However, we are also taking on board the concerns some parents and carers raised about the educational experiences of their children.

The Government recognises that more can be done to support students with a disability, and that an inclusive education approach is not currently experienced by all students. Enrolment should primarily be a matter of well-informed parental choice.

The Government also take seriously any reports of alleged staff misconduct towards students. The Department of Education is already taking steps for improving its complaints processes.

The Department of Education has already begun to act in the areas of concern raised by the Committee and to address many of the Committee's recommendations.

There were a small number of recommendations *supported in principle* however; the actions will be consistent with the intent of the recommendation.

Work has commenced to develop options for delivering improved education experiences and outcomes for students with disability in the longer term, informed by data and evidence. The department will be meeting with stakeholders in the coming months to progress this important work.

Further actions will be implemented that focus on providing more support for principals and their teachers so they can better meet the students' needs.

Actions already underway include:

- investigating sustainable, evidence-based options for improving education provision for students with disability into the future
- reviewing and improving professional learning for principals and teachers
- exploring options for improved access to specialist allied health and therapy services particularly considering the transition to the National Disability Insurance Scheme, and
- improving the process for students to access specialist education services in NSW public schools.

NSW Government thanks the Committee for its examination of education provision for students with disability and special needs in New South Wales schools. The specific recommendations of the Committee are addressed below.

**NSW Government response to the report of the Legislative Council Portfolio Committee No.3 – Education – Education of students with a disability or special needs in New South Wales**

**Recommendation 1: That the NSW Government formalise a presumption applicable to all New South Wales schools that a child is to be educated in an inclusive mainstream setting, unless there are compelling individual reasons for other arrangements.**

**Supported in principle**

The *Education Act 1990* provides for all students to seek enrolment at their local public school. The Education Act does not give NSW Government power to require non-government schools to enrol particular students.

The requirement to support enrolment in mainstream schools – both government and non-government – is supported by Part 4 of the *Disability Standards for Education* under the Commonwealth *Disability Discrimination Act 1992*, which requires that enrolment for students with disability is on the same basis as other students.

The department will do further work to build the capacity of its public schools to meet the needs of their local students and work to identify new approaches for allocating and using specialist support provisions to support students with disability in or close to their local school.

**Recommendation 2: That, each year, the Minister for Education make a Ministerial Statement in Parliament which reports on the educational progress of students with a disability in New South Wales.**

**Supported**

Under the *NSW Disability Inclusion Act 2014* the department is required to report annually on its progress implementing its Disability Inclusion Action Plan. This reporting cycle, which is aligned with the department's Annual Report, will provide the basis for a Ministerial Statement on progress in relation to students with disability in NSW public schools. The Minister is not able to report on educational progress of students in non-government schools.

**Recommendation 3: That the NSW Government review and report on the impact of Gonski 2.0 on students with disability in New South Wales schools.**

**Supported**

The Department of Education will report on the impact of resource allocations to NSW public schools through its Annual Report and explore how this could be achieved for non-government schools.

**Recommendation 4: That the NSW Government works with the Commonwealth Government to increase the overall funding available to ensure that adequate funding is provided to government schools to meet the needs of students with disabilities and special needs.**

**Supported**

NSW will continue to work cooperatively with the Commonwealth Government to appropriately and adequately fund students with disability. A priority of the National Schools Resourcing Board is to review the Student with Disability loadings in the Schools Resource Standard funding model. NSW will work with the National Schools Resourcing Board to achieve appropriate funding for students with disability.

**Recommendation 5: That the NSW Government use data collected through the Nationally Consistent Collection of Data on School Students with Disability instead of NAPLAN in the Student Learning Needs Index, as the basis for calculating the low level adjustment for disability equity loading.**

**Supported**

A range of improvement strategies are planned for Nationally Consistent Collection of Data on School Students with Disability (NCCD) in 2018 to improve the quality of the data. Subject to these data quality improvements, the department will investigate the use of NCCD data as one of the factors that may inform allocations of the low level adjustment for disability equity loading.

**Recommendation 6: That the NSW Government use data collected through the Nationally Consistent Collection of Data on School Students with Disability as an alternative indicator of need in calculating additional funding provided to non-government schools.**

**Supported**

From 2018 the Commonwealth Government will, for the first time, use NCCD data as the basis for its disability loading funding. NSW will review the outcomes of this process and determine the viability and reliability of the NCCD data for calculating the disability loading for non-government schools in NSW. The NSW Government does not currently have access to the NCCD data provided by non-government schools. In order to use this data to calculate funding, the Commonwealth Government will need to agree to provide NSW with access to this data.

**Recommendation 7: That the NSW Government review the NSW Department of Education Disability Criteria to ensure it is in keeping with contemporary understandings of disability.**

**Supported**

The Department of Education will finalise and release an immediate update of the Disability Criteria to reflect current diagnostic criteria for autism and other disability types. The department will review the criteria on biannual basis.

**Recommendation 8: That the NSW Government work with stakeholders to develop and introduce a funding model which better reflects the needs of students in all specialised settings and includes consideration of:**

- **staffing allocations, including executive support**
- **provision of specialist services**
- **additional teacher release time**
- **work, health and safety requirements**
- **secondary school curriculum needs.**

**Supported**

The Department of Education has reviewed the staffing model of schools including Schools for Specific Purposes. The review made a number of recommendations across immediate, medium, and long term timelines. Immediate changes include additional teacher release time in specialised settings and additional school administrative support staff allocations which will be made available to schools from 2018.

The review more broadly considered school entitlements including executive entitlements, support for these positions and models to allocate a number of teachers to a school.

This initial review forms the basis for a longer term review of staffing allocations, teacher release time and executive support, encompassing Schools for Specific Purposes settings. This review will be informed by an evaluation of the changes being implemented in 2018.

**Recommendation 9: That the NSW Department of Education:**

- **require individual schools to publicly report on their expenditure of the equity loading and integrated funding support components of the Resource Allocation Model**
- **develop a new reporting mechanism to provide greater transparency and include specific criteria identifying how the needs of students with special needs are being met from the available resources.**

**Supported**

Personalised learning and support for students with disability is planned in consultation with students or their parents and carers, according to their specific learning needs. The Department of Education will consider ways to improve reporting by schools on how the personalised learning needs of students with disability are met through the resources allocated to schools, including the work of teachers, support staff and flexible funding.

## **NSW Government response to the report of the Legislative Council Portfolio Committee No.3 – Education – Education of students with a disability or special needs in New South Wales**

In their annual reports, schools are currently required to report publicly on the expenditure of their equity loadings, including low level adjustment for disability funds. Schools also report on the expenditure of targeted funding. It is not appropriate for schools to publicly report on targeted support for individual students. Full copies of school financial statements are also tabled at annual general meetings of the parent and/or community groups.

The School Excellence Implementation Guidelines reinforce the importance of schools being able to demonstrate the purpose for which the additional funding for students with disability is being used. Schools are required to evaluate the quality and effectiveness of their activities and provide evidence of impact.

**Recommendation 10: That the NSW Department of Education increase support classes in mainstream schools to adequately meet student need.**

### **Supported**

Support class establishments will increase in 2018 at a greater rate than general enrolment growth, consistent with trends in previous years. The trend since 2012 is for the majority of new support classes to be established in mainstream schools.

**Recommendation 11: That the NSW Department of Education require reporting and data collection on all children with special needs who have sought enrolment in a school or support class and not obtained that enrolment.**

### **Supported**

The Department of Education collects data on children who seek enrolment in support classes in public schools as part of the access request process. There are a number of reasons why an enrolment in a support class may not be provided. For example, some applications do not meet criteria for placement in a support class. The department is currently upgrading its IT systems to allow reporting on support class enrolment.

Data on students whose enrolment application to a regular school is declined is not currently collected. The department will investigate options for this purpose.

The department does not have access to enrolment data for non-government schools.

**Recommendation 12: That the NSW Department of Education create a public dashboard that provides:**

- **twice yearly updated data on the number of students enrolled in Schools for Specific Purposes and support classes**
- **data on students not enrolled but seeking enrolment in Schools for Specific Purposes and support classes and on waiting lists for enrolment in these settings**
- **this data on a regional basis.**

### **Supported**

The Centre for Education Statistics and Evaluation publishes a summary of enrolments in Schools for Specific Purposes and support classes on its datahub each year. This data can be published twice yearly by operational directorate or principal network. As noted in Recommendation 11, work is underway to allow reporting on support class enrolment.

**Recommendation 13: That the NSW Department of Education implement a system for gathering data about the school setting for students with a disability from each school district, with tracking that monitors the numbers who attend special and mainstream settings.**

### **Supported**

The Department of Education has systems in place that allow it to track and monitor the number of students with disability who access targeted specialist supports in regular classes and specialist support classes.

**NSW Government response to the report of the Legislative Council Portfolio Committee No.3 – Education – Education of students with a disability or special needs in New South Wales**

**Recommendation 14: That the NSW Department of Education ensure that School Learning and Support Teams are adequately trained, resourced, staffed and remunerated to provide support to students, teachers and their schools.**

**Supported**

The resourcing and management of school learning and support teams is a school decision within the school budget allocation. These teams are established through the appointment of existing school staff, and are remunerated accordingly. The Department of Education is exploring a range of options to build the capabilities of school learning and support teams.

**Recommendation 15: That the NSW Department of Education ensure that Individual Education Plans are developed and implemented:**

- as a mandatory requirement for all students with disabilities and special needs
- with the support of adequate funding and resources

**Supported**

The Department of Education will address this through mandatory requirements under the Nationally Consistent Collection of Data (NCCD) for the recording in schools of personalised learning and support for students with disability receiving adjustments to participate in learning.

The *Disability Standards for Education* have been in place since 2005 and require of all schools: that reasonable adjustments are provided for students with disability where needed for them to participate in learning on the same basis as students without disability; that adjustments or supports are personalised according assessed needs of the individual student and; that they are determined in consultation with the student and/or their parents or carers.

As part of the NCCD principals are required to verify that the school holds documented evidence that these processes have been undertaken for all students recorded in the annual collection. Schools determine how these processes are recorded based on individual student needs and the context of the school. Individual education plans are one way to document this process.

**Recommendation 16: That the NSW Department of Education include, in the dashboard referred to in Recommendation 12, data on the proportion of students with disabilities and special needs who have Individual Education Plans.**

**Supported**

Information on planning for student learning and support needs, or an individual education plan, is held by schools and reflects individual student needs and the school's context. The department will draw on information available through the NCCD to identify the proportion of students with disability receiving personalised learning and support.

**Recommendation 17: That the NSW Government urgently implement the NSW Ombudsman's proposals in its Inquiry into behaviour management in schools.**

**Supported in principle**

The NSW Government is reviewing the Ombudsman's report and considering its proposals.

The Department of Education will do further work to build the capacity of schools to respond to the learning and support needs of students with complex or challenging behaviours. This work will focus on: the development of a new framework for policy and practice that addresses the full continuum of student behaviour; building the capability of teachers and specialist education staff through professional learning and support; and the use of data.

The department will work with other agencies that are also the focus of the Ombudsman's proposals, including the Department of Family and Community Services, the Department of Premier and Cabinet and representative bodies for the non-government school sectors.

## **NSW Government response to the report of the Legislative Council Portfolio Committee No.3 – Education – Education of students with a disability or special needs in New South Wales**

The NSW Government will also work with the Commonwealth Government and relevant parties (including the National Disability Insurance Agency) to apply agreed roles and funding responsibilities within the context of the COAG-endorsed Applied Principles – Tables of Support for National Disability Insurance Scheme participants who are identified as requiring specialised allied health/therapy or behaviour support.

**Recommendation 18: That the NSW Government only offer programs in New South Wales schools that the NSW Department of Education can certify are supported by peer-reviewed evidence of change in the trajectories of student outcomes over time.**

### **Supported**

The Department of Education will develop evidenced-based good practice guidelines to support the work of school principals in selecting programs or approaches that meet the educational needs of their students. This will be undertaken within the context of requirements under the *Education Act 1990* for the provision of curriculum and syllabuses.

**Recommendation 19: That, given the concerns raised regarding the efficacy of Reading Recovery, the NSW Department of Education fast track its assessment of this program and publish the outcome of its review.**

### **Supported**

From 2018 the Department of Education will no longer provide system support for Reading Recovery, based on an evaluation conducted by the Centre for Education Statistics and Evaluation which found evidence that the long term impact of Reading Recovery is limited for the vast majority of students. The department is investing more support in professional learning to ensure schools can address the literacy and numeracy needs of their students. In the early years, this includes professional learning in effective reading.

**Recommendation 20: That the NSW Department of Education:**

- **provide clear guidance to parents and training to schools about what are considered reasonable adjustments for students with disabilities and special needs**
- **set timeframes for the implementation of reasonable adjustments in schools.**

### **Supported**

A web based resource for parents about the *Disability Standards for Education*, including the concept of reasonable adjustment, can be accessed through the department's website. The department will review its website to ensure this resource is easy to find and easy to use.

Training on the *Disability Standards for Education*, available to all NSW public school staff, covers reasonable adjustments and the need to provide them in a timely manner. As part of the review of training in response to Recommendation 28, the department will consider ways to support expectations for the timely development and implementation of reasonable adjustments for students.

**Recommendation 21: That the NSW Department of Education provide formal best practice guidelines to assist Schools for Specific Purposes work with neighbouring mainstream schools to deliver a full curriculum to their students.**

### **Supported**

Good practice guidelines will be developed as part of a long-term strategy to support Schools for Specific Purposes (see Recommendation 8).

**Recommendation 22: That the NSW Department of Education prioritise its review of the Access Request process with a view to streamlining the process and facilitating the timely provision of funds to schools.**

### **Supported**

**NSW Government response to the report of the Legislative Council Portfolio Committee No.3 – Education – Education of students with a disability or special needs in New South Wales**

The Department of Education will take immediate steps to improve timely provision of funding through the Access Request process including training for School Service staff who support school learning and support teams in this process.

**Recommendation 23: That, as part of the NSW Department of Education’s review of the Access Request process, it consider the need to meet the reasonable costs to parents of obtaining the necessary medical reports to support access requests for students with disabilities and special needs.**

**Supported**

The Department of Education will consider requirements for assessment reports from health professionals where necessary to support access to targeted specialist services.

It is not currently necessary for parents to obtain medical reports to access support available in every local school through Learning and Support resources (low level adjustment for disability loading). Diagnostic and/or assessment reports are required to access targeted specialist services.

These services are limited to students with moderate and high levels of need and typically draw on existing diagnostic and other reports for the relevant students. The school counselling service can also undertake assessments of cognitive/intellectual functioning that can support a request for access to targeted specialist support. The department will further explore the extent of the issue of costs for diagnostic and assessment reports in 2018.

**Recommendation 24: That the NSW Department of Education reform the Access Request process so that:**

- all access requests applications are resolved within 28 days
- real time data on the number of applications received, the numbers accepted, the numbers rejected, and the reasons for rejection is published.

**Supported**

The review of the access request process (recommendation 22) will consider timeframes for resolution or notification of the status of an access request, including the timeliness of the process, real time data, and reporting to and communications with parents. It may not always be possible to complete or resolve all access request applications within 28 days due to the ongoing nature of some requests.

**Recommendation 25: That the NSW Department of Education consider publishing the advice it has been given in relation to its compliance with disability discrimination law in regards to service provision in Schools for Specific Purposes.**

**Supported**

Legal advice provided to the Department of Education to date has been in relation to individual students and is subject to legal privilege and privacy protections and, as such, will not be released. The department will look at options for publishing information about disability discrimination law in relation to service provision in Schools for Specific Purposes.

**Recommendation 26: That the NSW Department of Education review how allied health services and support is provided in schools, including directly employing allied health professionals within the Department and introducing adequately resourced multidisciplinary teams at the regional level.**

**Supported**

The Department of Education will review how allied health services and support is provided in schools in the context of the provision of these supports through the National Disability Insurance Scheme (NDIS) and consider options for improved access for schools to specialist advice.



**NSW Government response to the report of the Legislative Council Portfolio Committee No.3 – Education – Education of students with a disability or special needs in New South Wales**

**Recommendation 27: That the NSW Department of Education provide school counsellors at a minimum ratio of 1:500.**

**Supported in principle**

The NSW Government is committed to growing the school counselling workforce and has already allocated \$80.7 million to increase the school counselling service. In July 2016 the number of school counselling positions was increased by 236, increasing the total to 1,026 positions.

Based on current enrolments, this is equivalent to a ratio of 1:789 students. Once the rollout of these positions is complete, the department will investigate how it can further increase this provision.

**Recommendation 28: That the NSW Department of Education review training in the legal obligations and Disability Standards for Education with a focus on practical application of the training.**

**Supported**

The Department of Education will review the training on the Disability Standards for Education currently available to all NSW public schools during 2018 to identify potential improvements.

**Recommendation 29: That the NSW Department of Education make training in legal obligations and the Disability Standards for Education mandatory for principals.**

**Supported**

The Department of Education will explore in 2018 how training for all principals on the Disability Standards for Education can be addressed, through training for new and aspiring principals and through the existing requirements for mandatory participation each year in the NCCD.

**Recommendation 30: That the NSW Education Standards Authority investigate the feasibility of making training in legal obligations and the Disability Standards for Education part of the accreditation process for all teachers and principals.**

**Supported**

The NSW Education Standards Authority will review relevant Registered Professional Development courses to determine availability and investigate the feasibility of mandating any of the identified courses for teachers working towards and/or maintaining Proficient, Highly Accomplished and Lead Teacher accreditation.

**Recommendation 31: That the NSW Department of Education, in relation to professional development in special education:**

- **resource the increase of teacher release time**
- **increase funding allocations for regional schools**

**Supported**

The review of the staffing model of schools (see Recommendation 8) included recommendations for additional teacher release time in specialised setting from 2018. These changes in staffing allocations, teacher release time and executive support, including in special settings and regional, rural and remote schools, will inform medium and longer term changes to the staffing model.

**Recommendation 32: That the NSW Department of Education make it mandatory for principals to undertake financial management training.**

**Supported**

Currently all aspiring, relieving, acting and newly appointed principals must complete online the NSW Public Schools Leadership and Management Credential. Financial management is one of the 18 modules of this credential. Opportunities are being explored to further expand principals' training and capacity for financial management in schools. Face to face financial management training will be included in the Principal

**NSW Government response to the report of the Legislative Council Portfolio Committee No.3 – Education – Education of students with a disability or special needs in New South Wales**

Extended Induction Program and Professional Development conferences for existing principals. For existing principals, the department will develop and deliver mandatory financial management training.

**Recommendation 33: That the NSW Department of Education investigate formal processes to identify and mentor potential principals and the establishment of a principal preparation program.**

**Supported**

The Department of Education will expand the principal preparation program to deepen aspiring leaders' knowledge and skills. A School Leadership Institute will be formed and lead this work.

**Recommendation 34: That the NSW Department of Education consider the feasibility of establishing a business manager position in schools.**

**Supported**

The decision to appoint a business manager at any specific school is made by the principal. In 2017, the department announced that it has provided \$50 million in additional funding to schools to be used flexibly by principals for administrative support. This funding can be used to establish a business manager position when combined with base staffing allocation funding.

In addition, as noted in response to Recommendation 8, the Department of Education has increased the administrative support allocation to Schools for Specific Purposes from 2018. This funding can also be used to employ staff with skills in business management.

**Recommendation 35: That the NSW Department of Education work towards having all Learning and Support Teachers with appropriate special education qualifications to support the range of disabilities and special need presenting in schools.**

**Supported**

The Department of Education will work towards increasing the number of Learning and Support Teachers with special education qualifications. This includes exploring options at the graduate and post-graduate levels as well as in-service training.

**Recommendation 36: That the NSW Department of Education reform its complaints policy so that:**

- plain English advice is provided to parents about the right to complain
- there is an independent complaints process for a school's unreasonable refusal to enrol a child with a disability or to make reasonable adjustments
- no principal investigates a complaint against themselves.

**Supported**

The Department of Education has issued a revised complaint policy and procedures, and will ensure online content is in plain English and provide information to parents about making complaints. The department intends to complete further work to provide supporting information to parents who want to complain. Complaints about enrolment are handled in a specific manner. Complaint procedures and the toolkit will make clear that principals do not investigate complaints about themselves.

**Recommendation 37: That the NSW Department of Education and the NSW Education Standards Authority develop policy documents outlining the complaint procedures for complaints regarding allegations of misconduct or reportable conduct to set clear guidelines and expectations for the benefit of external complainants.**

**Supported**

The Department of Education has clear policy and procedures for responding to allegations of misconduct and reportable conduct. The Department is currently reviewing all mechanisms for providing this advice to the school community to ensure community members understand how to make complaints of this nature and how the complaints will be investigated.

**Recommendation 38: That the NSW Department of Education, in its procedures for complaints regarding allegations of misconduct or reportable conduct:**

- must notify parents if a matter involving their child is referred to the Employee Performance and Conduct Directorate (EPAC)
- establish a process for parents to refer a matter to EPAC
- inform parents of the outcome of any EPAC investigation involving their child
- maintain existing industrial entitlements and the right to due process for staff employed by the Department.

**Supported**

The Department of Education currently notifies all parents/carers if a matter being investigated by EPAC involves their child. As part of the material to be developed in response to Recommendation 37, the department will develop further guidance for parents and carers to refer matters to EPAC. EPAC currently informs all parents/carers of outcomes of its investigations involving their child in accordance with Part 3A of the *NSW Ombudsman Act 1974* and the guidance published by the NSW Ombudsman. Information provided to parents/carers about EPAC investigations may be limited by privacy and employment law.

EPAC will maintain existing industrial entitlements and right to due process for staff employed by the department.

**Recommendation 39: That the NSW Department of Education establish a case manager role to assist parents and carers in navigating all aspects of the education system, including the enrolment and complaints processes. In particular, this case manager should be in contact with each family during the enrolment process in order to facilitate well informed choices.**

**Supported**

The Department of Education will investigate options for a contact point to assist families in certain circumstances, for example, parents who request support or otherwise need assistance to navigate the school system, particularly during enrolment and/or transition.