

**Senate Standing Committee on Education Employment and Workplace
Relations**

**QUESTIONS ON NOTICE
Budget Estimates 2013-2014**

Outcome 2 - Schools and Youth

DEEWR Question No. EW0062_14

Senator Boyce provided in writing.

Question

Students with disability

1. Children with Disability Australia, the national peak body for children and young people with disability completed an issue paper/report "Enabling & Protecting: Proactive approaches to abuse and neglect of children and young people with Disabilities" which expressed the view that there was a high number of incidents in schools where children with disability have been subject to abuse by individuals and the educational institutions they attend. What's the Department's knowledge of this problem?
2. There are a number of court cases involving this issue and also a tremendous amount of anecdotal testimony from children with disabilities, their carers and the families alleging numerous incidents of abuse. Are you aware of that?
3. Does the department keep records, information, data or records of incidents where children with a disability have suffered bullying, abuse or neglect? Are schools that receive Federal Government funding obliged to report such incidents?
4. Do you keep records or incidents in which students with disability are, restrained or subjected to any other restrictive practices and the reasons this is seen to be necessary?
5. Do you keep records where attendance at school for students with disability is conditional on them taking medication to assist with managing behaviour?
6. The report was especially critical of the incidence or abuse of children with disabilities in the education system and the failure of education departments to have policies that reflect an understanding of the seriousness of the problem and therefore adequate systems to therefore deal with the problem. Could I have the Department's response to that please?
7. The people responsible for putting together the report, "Enabling & Protecting: Abuse and Neglect of Children and Young People with Disabilities", sought comment and input from your Department in compiling the survey. What did the Department say to them? Is it true that the Department gave no 'specific' response?
8. Isn't it also true that the Department gave that sort of response, because, and I quote,"It wasn't seen as a particular issue." [Reported by researcher Dr Sally Robinson]

9. Given that the most reliable studies into these issues found that the prevalence of maltreatment of children with disability to be 3.4 times higher than that for children without disability (31% as compared to 9%). The latest large study puts that rate at almost four times the rate for children without a disability. Consequently is there a role for a national approach to these issues?
10. How does this situation and the employment of such practices in Australian schools sit with our responsibilities as signatories to a number of International Human Rights treaties and covenants?
11. Will restrictive practices be classed as an 'adjustment' in the upcoming national data collection on students with disability?
12. Does the Department view the use of restrictive practices and seclusion as an acceptable or appropriate way of meeting the educational needs of students with disability? If this is the case, will these practices be used more widely with students without disability and be included the National Plan for School Improvement?
13. In a home setting the use of restrictive practices and seclusion would be grounds for the intervention of child protection authorities. Why are these practices used in schools?
14. Should not inclusions pertaining to the protection of students with disability from abuse in school settings be included in the National Education Agreement?

Answer

1. Under the National Education Agreement, the states and territories have responsibility for the delivery, management and regulation of schools. As a result, the Commonwealth does not have visibility into the day to day operations of schools and only becomes aware of abuse allegations through the reports of independent bodies or complaints made directly to the Commonwealth.

When the Department is notified of individual complaints, the Department will report these allegations to the relevant state or territory law enforcement authorities to ensure these allegations are independently investigated.

2. Under the National Education Agreement, the states and territories have responsibility for the delivery, management and regulation of schools. As a result, the Commonwealth does not have visibility into the day to day operations of schools and only becomes aware of abuse allegations through the reports of independent bodies or complaints made directly to the Commonwealth.

When the Department is notified of individual complaints, the Department will report these allegations to the relevant state or territory law enforcement authorities to ensure these allegations are independently investigated.

3. No, the Australian Government does not collect records of this kind.

Schools that receive Australian Government funding are obliged to comply with the Commonwealth Disability Discrimination Act 1992 and the relevant disability discrimination legislation of their state and territory. Many states and territories also impose mandatory reporting requirements on teachers where they suspect a child is at risk of significant harm.

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6. Schools that receive Australian Government funding are obliged to comply with the Commonwealth *Disability Discrimination Act 1992* and the relevant disability discrimination legislation of their state and territory.

Under the National Education Agreement, states and territories are responsible for the delivery, regulation and management of schools. This includes decisions about the allocation of resources and support services, along with the development of specific state/territory based programs and policies.

- 7 and 8. The Department of Education is not aware of any request for comment and input into the survey from Dr Sally Robinson or Children with Disability Australia. The Department is concerned about reports of alleged abuse of students with disability in schools and recognises that it is important for all students to be educated in a safe learning environment.
9. The Department of Education is leading a number of current initiatives in Australian schools to reduce incidents of bullying, harassment and to improve student safety for all students, including those with disability. These include the National Safe Schools Framework, the work of the Together for Humanity Foundation and the Bullying.NoWay! website.

The Department of Social Services (DSS) is the Australian Government department responsible for supporting families, children, communities and vulnerable people. As such, DSS may also be able to provide information about their approach to such issues.

10. Australia is the signatory to a number of important international conventions, such as the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities. Given our respective constitutional responsibilities, it is the responsibility of both the Commonwealth and the states and territories to ensure these obligations are met. Through our National Education Agreement and targeted funding initiatives, the Commonwealth seeks to ensure that states and territories comply with these obligations in their delivery of schooling services by including the requirement that they comply with the Commonwealth Disability Discrimination Act 1992 and state/territory anti-discrimination legislation.
11. The model for the nationally consistent collection of data on school students with disability (the Model) will enable students to be included in the data collection process if there is documented evidence based on observation, information provided by and in consultation with, parents/carers/associates, diagnostic and other data held by the school.

Under the Model, judgments made by teachers or other appropriate school staff to determine whether an adjustment being made for a student is to be considered as part of the nationally consistent collection of data are based on the levels of reasonable adjustment that students with disability are provided in both the classroom and whole of school context.

12. The *Australian Education Act 2013* imposes a continuing obligation on a school's approved authority to ensure the school complies with the Commonwealth Disability Discrimination Act 1992 and relevant state and territory anti-discrimination legislation. If a school engages in an act that does not comply with these laws the Minister may revoke the approved authority's approval to receive funding for that school.
13. Under the National Education Agreement, the states and territories have responsibility for the delivery, management and regulation of schools. As a result, the Commonwealth does not have visibility into the day to day operations of schools and only becomes aware of abuse allegations through the reports of independent bodies or complaints made directly to the Commonwealth.

When the Department of Education is notified of individual complaints, the Department will report these allegations to the relevant state or territory law enforcement authorities to ensure these allegations are independently investigated.

14. Clause 19 of the National Education Agreement specifically outlines the responsibilities of the states and territories, including 'ensuring all school aged children are given the opportunity to enrol in a safe and supportive school that provides a quality education, including where students have particular needs'.