



Submission on the Education and Children Services Amendment Bill 2025

June 2025



Commissioner
Y for Children &
Young People

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Thank you for the opportunity to provide feedback on amendments to the Education and Children Services Act 2019 to bring the law in-line with recommendations of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with a Disability.

As you are aware, the inaugural Commissioner for Children and Young People strongly advocated for changes that ensure children and young people are not unfairly excluded from school and I am of the same mind. She knew the importance of school for all children and young people, especially for children who are vulnerable. Schools can be a protective place for some of these children, especially when things are not going well at home.

Relevant reports and submissions from the office include:

- [Missing Out](#): Systemic discrimination of children and young people in South Australia.
- [The Blame Game Report](#): The perspectives of South Australian children and young people on the causes and impacts of education exclusion and why we need to stop blaming children for system failure.
- [From Checkbox to Commitment Report](#): What children and young people with disability said about identity, inclusion and independence.

Although these amendments appear to focus on children with disability, I hope that when these regulations are finally implemented - particularly in relation to determining exclusions and expulsions - it results in all children are viewed in their full context, not just as to whether they have a disability. However, these amendments do not fully implement the Royal Commission's Recommendations.

I welcome the following thoughtful amendments and particularly commend:

- Defining disability in-line with the National Consistent Collection of Data definition (which is also consistent with the Disability Discrimination Act. This will help ensure that there is also consistency in policy development and practice.
- That non-Government schools will also be accountable in respect to enrolling children with disability and reporting on refusal or cancellation of enrolments and be required to publicise policy/practice and data on exclusions, suspensions and expulsions.

Both these amendments will ensure children with a disability are protected from discriminatory practices and should in the long term, uncover any discriminatory practices and ensure schools are able to address any discriminatory practices.

In respect to the other the amendments I state:

- That there is an amendment recognising that the suspension, exclusion and expulsion (SEE) of students are used only as a last resort and that children in primary school are not excluded (especially in the first few years).
- That the amendment of regulation 26 include other vulnerable students that are over-represented when it comes to SEE disciplinary action, including children in care and those with an Aboriginal or Torres Strait Islander background.

Further, although I support the collection and reporting of consistent and transparent data on SEE of students with a disability inserted in the proposed amendment of 81B, it will be very difficult to determine whether outcomes for this group are improving if data for all students is not also published. I therefore return to The Blame Game Reportⁱ released in 2020 which recommended “public reporting of the numbers of suspensions and exclusions needs to be disaggregated into school, age, sex, gender, disability status, Aboriginal and Torres Strait Islander, CALD, health status, other relevant identity and background factors” for all schools.

I also recommend that the both of these recommendations be fully implemented and that where relevant be extended to all students, including:

- establish an independent review process to enable a parent or supporter of a child or young person with disability to challenge a refusal to enrol the child or young person in a school. This does not necessarily have to result in the creation of an entirely new body, but could include the establishment of independent review panels, like those in the UK.ⁱⁱ (recommendation 7.1)
1. include a duty for principals to report the repeated use of exclusionary discipline involving a student with disability to an escalation point within educational authorities for independent case management (recommendation 7.2)
 2. include a robust review or appeals process for students with disability and their families or carers and supporters (recommendation 7.2)
 3. ensure students with disability have access to educational materials appropriate to their educational and behavioural needs while subject to exclusionary discipline (recommendation 7.2)
 4. support students with disability to re-engage in education post exclusion (recommendation 7.2).

I commend these amendments as they strengthen the rights of people with disability, I also support the SA Parliament's Social Development Committee's recommendation for South Australia to implement an overarching Human Rights Act. A South Australian Human Rights Act would see better protection of human rights for all people in the state by consolidating the piecemeal rights and protections that are scattered throughout different legislation into one comprehensive Act. This will ensure that all future laws, policies and approaches are developed through a human rights lens and will establish an independent complaints mechanism.

If you have any questions please do not hesitate to contact this office.

Yours sincerely,



Mimi Crowe

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ⁱ Connolly, H. - Commissioner for Children and Young People SA. The Blame Game – The perspectives from South Australian children and young people on the causes and impacts of education exclusion and why we need to stop blaming children for system failure. October 2020. Available at <https://www.ccyp.com.au/wp-content/uploads/2022/03/The-Blame-Game-The-perspectives-of-South-Australian-children-and-young-people-on-the-causes-and-impacts-of-education-exclusion-and-why-we-need-to-stop-blaming-children-for-system-failure.pdf>.

ⁱⁱ School exclusions hub. Accessed at <https://schoolexclusionshub.org.uk/professionals/appeal-and-reconsideration/attending-irp-advocacy-and-supporting-family/quick-guide-independent-review-panels/>