

## **Submission to the Inquiry into Discrimination and Bullying in Tasmanian Schools**

Thank you for the opportunity to make a submission in response to the Inquiry into Discrimination and Bullying in Tasmanian Schools. The Association for Children with Disability (Tasmania) Inc. – ACD Tas., supports further inquiry into the effects of discrimination, bullying, problematic conduct, and disadvantageous treatment on students with disability and their families.

This submission provides a response to Terms Of Reference (TOR) A, B, and C, informed by the lived experiences of discrimination, unequal and disadvantageous treatment, and bullying and harassment reported to ACD Tas by Tasmanian students with disability and their families. This is undertaken through the lens of the primary obligations all education providers and educators have under the Disability Standards for Education (2005). The three main obligations to students with disability are:

- To make educational adjustments
- To prevent harassment and victimization
- To consult with parents and families about adjustments and concerns as required.

This submission acknowledges discrimination is ultimately a legal determination. For this reason, the ACD Tas submission focuses on areas of 'unequal and disadvantageous treatment' commonly observed in our advocacy practice supporting students with disability and their families.

### **About ACD Tas**

The Association for Children with Disability (Tas) Inc. is a Tasmanian not-for-profit organisation. Better known as ACD Tas, we are a peer-led family organisation that has provided information, advocacy, consultation and training, and peer support services to families across Tasmania with children with disability since 1998.

Our mission is to provide community leadership and quality support options that improve participation and life outcomes. Our vision is that people with disability, their families and carers have equal opportunity to reach their potential and lead fulfilling lives.

Daily, our skilled and professional staff engage with and work for more than 250 parents and carers and children and young people with disability (newborn to 25 years old) who require information, advocacy, and support. Their experiences inform this submission. Our overarching purpose is to work and advocate for continual progress towards a more inclusive society through the reduction and elimination of barriers to inclusion experienced by children and young people with disability and their families and carers.

Contributors to this submission:

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With respect to disability, all schools, education providers, and their employees have obligations under the Disability Standards for Education (DSE, 2005), in addition to provisions of the Anti-Discrimination Act (Tasmania, 1998). These obligations to children with disability fall into three main types:

- to make educational adjustments
- to prevent harassment and victimisation, and
- to consult with parents about adjustments and concerns.

The ACD Tas Advocacy team frequently works with families to identify, raise and resolve concerns about how schools are meeting their DSE obligations to students with disability. We work with students and their families in Tasmanian schools across all sectors: Government, Independent, Indie and Catholic education for the purpose of upholding the rights and improving the education participation outcomes of children with disability in education settings. Advocates assist to clarify issues and explore situations of concern, discuss rights and other supporting information, including educational adjustment options and relevant possible courses of action. ACD Tas advocates empower parents and carers to act independently for their child or work alongside the family to support and, if needed, represent them. Advocates support families by liaising with and providing feedback to relevant school and education personnel by email, phone or in person at Learning Plan and Care Team meetings and other forums.

Education issues continue to dominate as the primary reason for accessing ACD Tas advocacy. In our 2022/2023 data, Education issues (267) was the main reason for accessing advocacy assistance for over half (52%) of referrers. This was an increase of 4 percentage points from 2021–22 and the same rate as in 2019–20. The sustained rate of Education issues over the last three years possibly reflects the Tasmanian education system has struggled to return to pre-COVID health. Education issues were resolved in a timely way, with advocates assisting 90% of parents and carers within 6 months of referral (up 5 percentage points on the previous year). However, 60% (up by 23 percentage points) of cases took between 3 and 12+ months to resolve due to the complexity of issues.

Families seeking advocacy for Education issues often identify concerns about their children with disability experiencing ‘unequal and disadvantageous treatment, bullying and harassment in Tasmanian schools.’ There are also concerns about school staff and decision makers, who are not disability experts, mistaking and misinterpreting disability-related behaviour as bullying, or dismissing parents’ bullying concerns as parental anxiety. There is little reporting of the lived experiences, nature and frequency of bullying experienced by Tasmanian students with disability. However, the limited data available indicates that students living with disability are statistically greatly overrepresented in restricted school attendances, suspensions, and exclusions.

Advocates support parents/carers to open, or continue, a conversation with the school about their concerns and to seek resolution on behalf of their child. In our rights-based practice, we on occasion draw school leadership attention to school actions or inactions that may constitute discrimination, direct and indirect, and seek resolution. Unequal and disadvantageous treatment often clusters around common issues and concerns, although these patterns rarely reach broader public awareness. The following tables seek to identify and describe a select sample of these concerns.

**TOR A) Inquire into and report upon direct and indirect discrimination, prohibited conduct, unequal and disadvantageous treatment, bullying and harassment in Tasmanian schools in regard to students and staff;**

**Table 1: Examples of Unequal and Disadvantageous Treatment**

Key Concerns	Key Drivers of Unequal and Disadvantageous Treatment reported to ACD Tas Advocacy	What Unequal and Disadvantageous Treatment are reported to look like	What Unequal and Disadvantageous Treatment are reported to look or sound like
<b>Bullying, Harassment and Victimisation</b>	<ul style="list-style-type: none"> <li>Individual difficulties at school are experienced by 64% of school students with disability (Australian Institute of Health and Welfare, 2024<sup>i</sup>), with 56% having experiencing difficulties ‘fitting in socially’</li> <li>Bullying of students with disability is a common parent/concern as are school management responses to students with disability-driven behaviours.</li> <li>Students with disability are best placed to describe their lived experience of bullying and exclusion, although this may trigger anxiety and trauma. The Disability Royal Commission recognized this and provided</li> </ul>	<ul style="list-style-type: none"> <li>Sustained negative attention from teachers and peers</li> <li>Lack of explicit teaching of social skills to all students</li> <li>Lack of explicit teaching of the social model of disability for students and staff.</li> <li>Repeated suspensions of very young children (from the age of 5) for behaviours of concern that are disability-related.</li> <li>Other exclusionary and disciplinary practices (in class and not being included in activities with their classmates)</li> <li>Lack of flexible support to implement zones of regulation practices</li> <li>Lack of recognition of student strengths and positive attention from school leadership.</li> </ul>	<ul style="list-style-type: none"> <li>Personal ridicule of a characteristic beyond the student’s control</li> <li>A student being described as a risk</li> <li>Proof overrides privacy, e.g. filming a dysregulated student</li> <li>Warnings are given to parents and carers who complain</li> <li>False accusations made by both peers and staff about students living with disability</li> </ul>

	appropriate supports for participants. This level of assistance and child safeguarding is highly recommended to be made available to respondents to this inquiry.		
<b>Denial of educational rights to access education</b>	<ul style="list-style-type: none"> <li>• Exclusionary practices are widely accepted for students with behaviours of concern due to unrecognised and diagnosed disability</li> <li>• Use of risk assessments to exclude students rather than refine adjustments and supports</li> <li>• Lack of adjustments, including environmental and sensory adjustments</li> <li>• Lack of alternatives/clear pathway to support students with complex disability</li> <li>• Lack of skilled, experienced staff, including Teachers and Teacher Assistants, and workforce recruitment issues</li> <li>• Support needs of students with suspected disability not being recognised</li> </ul>	<ul style="list-style-type: none"> <li>• Informal 'reset' days</li> <li>• Request early collection from school</li> <li>• Informal part-time attendance</li> <li>• Over-use of part-time enrolment</li> <li>• Exclusion and suspension without reviewing educational adjustments and supports</li> <li>• Expulsion</li> <li>• Requests to withdraw the student</li> <li>• Limited flexibility to revisit a risk assessment after one or two incidents when staff have not considered contributing factors prior to the incident/s.</li> </ul>	<ul style="list-style-type: none"> <li>• "He/she/they are unsafe and dangerous and cannot be at school"</li> <li>• "They need a fresh start somewhere new"</li> <li>• "We cannot have them here on site"</li> </ul>

<b>Negative/Inadequate School Responses</b>	<ul style="list-style-type: none"> <li>Limited training for support staff and /or supervision, guidance.</li> <li>Limited off class time for teachers responsible for planning and preparation to implement Learning Plans</li> <li>Staff are unaware of their obligations under the DSE standards and DECYP Student Behaviour Management Policy, and do what is best for the school rather than the student</li> <li>Staff are unsure of what constitutes best practice for inclusion</li> <li>Staff are unsure what constitutes best practice responses to the bullying of children with disability.</li> </ul>	<ul style="list-style-type: none"> <li>Inadequate time spent with students who need support <i>when</i> they need it, particularly after a bullying or exclusion incident.</li> <li>Crisis responses from Senior School Leadership</li> <li>Inadequate strategies in Learning Plans and insufficient review</li> <li>Dismissing parent and carer concerns and ideas</li> <li>Staff coming to parent/carers meetings in large numbers which can intimidate families.</li> <li>Trespass orders restricting parents from school site.</li> </ul>	<ul style="list-style-type: none"> <li>"We've tried everything, and there's nothing more we can do"</li> <li>"There isn't a problem here"</li> <li>"That's beyond what schools are tasked to do under policy"</li> <li>"We don't have the resources"</li> </ul>
<b>Consultation and communication intimidation of parents</b>	<ul style="list-style-type: none"> <li>School culture and senior leadership sets the tone of interactions with families. Leadership needs to be skilled in having difficult conversations without suggesting to concerned families they or their children are the problem.</li> <li>Ineffective communication with families and</li> </ul>	<ul style="list-style-type: none"> <li>Not listening respectfully to families during consultation and feedback</li> <li>Dismissing parent/carers concerns and ideas</li> <li>Power imbalance in parent-school meetings, such as numbers of staff present, inadequate meeting notes, etc.</li> <li>Not being flexible in communication with parents, especially parents who request adjustments.</li> </ul>	<ul style="list-style-type: none"> <li>"They aren't listening to what I say, or what the therapist is recommending."</li> <li>"The teacher says she doesn't see evidence of my child's disability, and refuses to make adjustments, despite having the diagnostic report."</li> <li>"Other parents are having a go at me about my</li> </ul>

	<ul style="list-style-type: none"> <li>other professionals.</li> <li>Poor communication within the school with personnel.</li> </ul>		<ul style="list-style-type: none"> <li>child being disruptive.”</li> <li>“I am scared of what will happen to my child at school if I complain.”</li> </ul>
<b>Unmet Need and Resource Gaps</b>	<ul style="list-style-type: none"> <li>Students with disability whose support needs are not being sufficiently met. The AIHW reports 32% of school students with disability need more support.</li> <li>Resourcing gaps are drivers of unmet need and manifest in Tasmanian schools as student disengagement, inadequate support when required, a lack of flexibility and tailored adjustments, and suspensions and expulsions.</li> </ul>	<ul style="list-style-type: none"> <li>Staff unable to gain access to adaptable funding/resources to put education plan strategies into practice.</li> <li>Lack of flexible alternative educational options, including environments for students with complex disability, such as Autism Spectrum Disorder, Attention Deficit Hyperactivity Disorder, Sensory Processing Disorder, Post Traumatic Stress Disorder, Trauma, Anxiety. These needs are well-known, with the AIHW (2024) reporting 81% of student with psychosocial disability have difficulty at school.</li> </ul>	<ul style="list-style-type: none"> <li>“We don’t have the resources to... have a quiet space, change the sensory environment buildings, and support your child in the way they need to be supported.”</li> <li>“We don’t have time or access to specialized support.”</li> <li>“She/he is on a waitlist.”</li> <li>“If we can get the funding.”</li> <li>“There is no individualized trauma support”</li> </ul>
<b>Exclusion within schools</b>	<ul style="list-style-type: none"> <li>Students with disability may be located separate from their peers. This may support them in the short-term and/or be their preference, but long-term use of separated spaces on the school site without a plan for joining their peers can result in exclusion.</li> </ul>	<ul style="list-style-type: none"> <li>“The window boxes – glassed rooms they put children in as regulation spaces.”</li> </ul>	<ul style="list-style-type: none"> <li>“He/she works best separately”</li> </ul>
<b>Institutional and cultural barriers</b>	<ul style="list-style-type: none"> <li>School cultures resistant to changing practices and adapting to</li> </ul>	<ul style="list-style-type: none"> <li>Not listening to parents/families/carers</li> </ul>	<ul style="list-style-type: none"> <li>“Our school doesn’t work that way.”</li> </ul>

	support diverse learners	<ul style="list-style-type: none"> <li>• Unwillingness to trial and review adjustments and strategies,</li> </ul>	<ul style="list-style-type: none"> <li>• “He/she refused the strategies.”</li> <li>• “We have tried everything.”</li> <li>• “It is a challenging year.”</li> <li>• “We don’t have the expertise.”</li> <li>• “A Support School would be a better option.”</li> </ul>
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**TOR B) inquire into and report upon the measures necessary to prevent and remedy discrimination and bullying in Tasmanian schools in regards to students and staff**

<b>Systemic Drivers of Discrimination and Bullying</b>	<b>School-Level Drivers</b>	<b>Remedies</b>
<b>Policies and Procedures</b>	Interpretation and implementation of policy and practices	<p>ACD Tas recognise the significant policy and practice work by DECYP on:</p> <ul style="list-style-type: none"> <li>• defining bullying</li> <li>• preventative education</li> <li>• Student Behaviour Management Policy</li> <li>• Restrictive Practice Procedures.</li> </ul> <p>Areas of concern and further remedies are:</p> <ul style="list-style-type: none"> <li>• Preventative education on disability, social model of disability, and valuing diversity.</li> <li>• Data on the frequency and nature of bullying of students with disability at each school</li> <li>• Data on nature of supports offered to and accepted by students with disability who are bullied within the school setting, given waitlists for accessing student support</li> <li>• A clear pathway to escalate bullying incidents from school to external community agencies.</li> <li>• Addressing misuse/misunderstanding of the Student Behaviour Management policy to inappropriately suspend and exclude students with disability.</li> </ul>
<b>Culture</b>	Culture and leadership	<ul style="list-style-type: none"> <li>• Sufficient Funding supports and more off class time for planning and preparation</li> <li>• Recognition and promotion of inclusive school culture and leadership practice</li> <li>• Mentoring support and examples of excellence</li> <li>• Transparency of how schools are doing and innovation encouragement and celebration</li> <li>• Accountability for supporting students</li> <li>• Excellent practitioners gain career rewards and incentives</li> <li>• Discriminatory educative practitioners are performance managed and made redundant</li> <li>• Education and training to understand and implement the Disability Standards for Education</li> </ul>

		<ul style="list-style-type: none"> <li>• A change to the award to allow and encourage other specialties than teachers (Psychologists, Speech Pathologists, OT's, Developmental Educators etc.) to be promoted to senior leadership positions</li> <li>• An independent complaints mechanism is established, and complaints are welcomed and responded to effectively</li> <li>• Schools are independently audited against the DSE standards</li> <li>• All school staff receive compulsory DSE training and next level implementation assistance</li> <li>• Each school must have an Education inclusion plan and strategies for continuous improvement with annual review</li> <li>• Independent Advocacy in support of children with disability and families is welcomed</li> </ul>
<b>Risk/safety/negative attention</b>	Legal risk has exclusionary consequences for students with complex disability. The emphasis on psychosocial risks to student and staff leave students with disability without access to necessary supports through education systems.	<ul style="list-style-type: none"> <li>• Policy and practice supports for school leadership to reconcile possible risks with the education rights of children with disability</li> <li>• Education pathways for students with disability who are unable to attend their local school</li> </ul>
<b>Practice gaps in education</b>	Inexperience Training Skills gaps	<ul style="list-style-type: none"> <li>• Trauma-informed practices and accessible referrals</li> <li>• Training for all staff alongside family-centered practice/partnership training.</li> <li>• Mental health first aid</li> <li>• More time off class to plan and prepare</li> <li>• DSE compulsory training for all teachers</li> <li>• Access to multidisciplinary teams with specialist advisors</li> <li>• Increasing school's capacity for timely referrals of students for mental health support, psychological assessments of neurodevelopmental disability (e.g., Autism Spectrum Disorder, Attention</li> </ul>

		Deficit Hyperactivity Disorder, Fetal Alcohol Spectrum Disorder, Intellectual Disability, Specific Learning Disability).
<b>Inaction</b>	Failure to respond to students who do not pose problems for the school (e.g., those who internalize problems, e.g., school avoidance/refusal, disengagement)	<ul style="list-style-type: none"> <li>Education Registrar is one available remedy. OER conciliation requires school and parents to address problem, but success requires oversight/accountability of schools to ensure follow through on agreed actions and provide supports for child/young person to engage</li> </ul>
<b>Resourcing</b>	Staffing shortage Budgetary limits	<ul style="list-style-type: none"> <li>Staffing shortages, budgetary limits, and resource gaps are given as reasons why remedies cannot be implemented by schools</li> </ul>
<b>Unresponsive systems</b>	There are varied options for parents/carers who are unable to resolve issues directly with schools. Families may not be able to resolve issues due to distrust and damaged relationships between home and school	<ul style="list-style-type: none"> <li>Meetings with school staff and escalation of issues to principal</li> <li>Care Team meetings</li> <li>Independent Advocacy support</li> <li>Complaints mechanisms, which vary by school/sector</li> <li>Education Registrar Conciliation</li> <li>Equal Opportunity Tasmania conciliation</li> <li>Ombudsman</li> <li>Legal remedies</li> </ul>
<b>Government and Public Reporting Transparency</b>	Lack of public accountability, reporting and mechanisms to explicitly link school-level practices, roles, and programs with government's endorsement of key reports and recommendations, such as the Disability Royal Commission.	<ul style="list-style-type: none"> <li>For the Government Administration Committee to add clear disability related components to any review/report/recommendations, and explicitly link that to work/roles/programs already underway, off the back of the Disability Royal Commission.</li> </ul>

**ToR C) examine and recommend what efforts are being made and should be made towards meeting those obligations by Tasmanian schools in regard to students and staff**

Area	Current Efforts and Needs	Recommendations
<b>Culture and leadership</b>	Senior school leadership is transformative in meeting a school's obligations to students with disability and their families	<ul style="list-style-type: none"> <li>• Access to relevant training</li> <li>• Career progression linked to meeting the DSE standards</li> <li>• Recognition of good practice</li> <li>• Rewarding good practice</li> <li>• School Principals must adhere to and implement like policies and practices across schools</li> <li>• The student curriculum includes a young leadership skills development program for all students from grade 6 on, working in collaboration with the community to build confidence and resilience, and involve students in local community development projects and activities that bring positive change.</li> <li>• Using case studies to identify exemplary practices and school cultures within Tasmania.</li> </ul>
<b>Transparency</b>	School's inclusive strategies and use of exclusion, suspensions and expulsions are not publicly known. Parents/carers find this out through word of mouth.	<ul style="list-style-type: none"> <li>• Every school should know what good practice looks like and how to meet these standards.</li> <li>• Policies and procedures that support inclusive practice must be the same for all in the education sector.</li> <li>• Private schools who use exclusionary practices and do not welcome students with disability should receive a monetary penalty</li> <li>• Public schools receive an increase in funding per student and receive a greater student rate than private schools</li> <li>• Parents/carer access to a school's track record and examples of supporting students with disability</li> <li>• Public reporting of significant wait times for student access to a school psychologist or speech therapist. Parents can be told there is a two-year wait to access student support, with some students leaving school before assessment</li> <li>• Reporting option for parents who have been deterred from making complaints or seeking support from Learning Services</li> </ul>

<b>Consultation, Communication &amp; Collaboration</b>	<p>Skilled staff know how to consult well with parents, families, and children with disability.</p> <p>Some schools do considerably better on this than others.</p>	<p>Guidelines and toolkits to engage students with disability and their families in:</p> <ul style="list-style-type: none"> <li>• Effective communication</li> <li>• Working collaboratively</li> </ul>
<b>Accountability</b>	<p>Requirements for school sectors to record and report when students are excluded, including informally, and expelled, including when withdrawn due to school lack of knowledge, resources, skills to work with student with disability.</p>	<ul style="list-style-type: none"> <li>• Published data on support provided, students suspended or excluded, and resourcing, staffing and skills gap</li> <li>• Publicly available data and information on the schooling trajectories of students with disability</li> </ul>
<b>Reasonable adjustments not made</b>	<p>Barriers to further adjustments are recognised but without a clear path to resolve these within operating constraints.</p>	<ul style="list-style-type: none"> <li>• Identification of adjustments and accommodations needed but not made due to resources (e.g., environmental changes in schools re space, sound, class size)</li> <li>• Pathways for school principals to escalate concerns about resource gaps and unmet need, within each schooling sector</li> </ul>

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<sup>i</sup> Australian Institute of Health and Welfare (AIHW), (2024), *People with disability in Australia*, AIHW, Australian Government, accessed 23 April 2024.