

**ROYAL COMMISSION
INTO VIOLENCE, ABUSE, NEGLECT AND EXPLOITATION
OF PEOPLE WITH DISABILITY**

Public Hearing 7 - Education

QUESTIONS ON NOTICE - STATE OF NEW SOUTH WALES

Hearing on 7 May 2021

1. On 7 May 2021, the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability held Public Hearing 7 - Education for the hearing of oral submissions. The State of New South Wales appeared and took questions on notice from the Chair and Commissioners, the Honourable Roland Sackville AO QC, the Honourable Commissioner Roslyn Atkinson AO, Commissioner Rhonda Galbally AC and Commissioner Andrea Mason OAM.
2. On 16 June 2021, the Solicitors Assisting the Royal Commission sent a letter to the State of New South Wales confirming and clarifying the questions on notice and raising additional questions from the Commissioners. The State of New South Wales provides the following responses to those questions.

Question 1 (Commissioner Mason)

The question asked by Commissioner Mason at *Transcript, Public hearing 7, 7 May 2021, P-516 [38] 517 [1]*, paraphrased as follows:

- a. **Are First Nations students with disability disproportionately expelled and/or suspended from New South Wales government schools?**
- b. **What actions is the State of New South Wales taking to ensure that First Nations students with disability are not disproportionately expelled and/or suspended from New South Wales government schools?**

First Nations students with disability and suspensions/expulsions

3. The New South Wales Department of Education (**the Department**) has publicly recognised that suspension rates remain too high in NSW public schools, especially for students with disability. As stated in the Submissions in Reply of the State of New South Wales dated 30 April 2021

(State's written submissions), the Department released its Student Behaviour Strategy in March 2021. This states:¹

“In addition, we know that suspension rates for vulnerable students in NSW are too high, and disproportionately so for students with disability, Aboriginal students, students in rural and remote areas, students in out of home care and students experiencing socioeconomic disadvantage. Most importantly, there is no evidence that suspension is an effective mechanism for improving or managing student behaviour. Suspension does not provide students with the support they need to achieve behavioural change when they return to the classroom, so we need to provide new and better alternatives.

We are holding ourselves to account by working to change this by rolling out additional supports, resources and access to specialist services to provide new approaches for addressing complex, challenging and unsafe behaviour.”

4. The Department does not have specific policies or programs that relate only to First Nations students with disability in relation to suspensions, exclusions and expulsions. This is because the Department's policies and programs in relation to suspensions, exclusions and expulsions apply to all students. The Department has specific programs and initiatives for improving the educational outcomes of First Nation students, which are set out below in response to Question 2.
5. The Student Behaviour Strategy aims to increase students' attendance and engagement with school and reduce the number of suspensions. Under the Student Behaviour Strategy, the Department aims to meet the needs of all students by providing supports across a multi-tiered continuum of care, from universal and preventative support through to targeted or secondary supports, and tertiary and intensive interventions. The Department will also provide additional supports to schools e.g. the introduction of expert behaviour specialists: see the Statement of Frank Potter² (**Mr Potter's Statement**) at [104-106].
6. In conjunction with the Student Behaviour Strategy, the Department is developing the new Student Behaviour Policy and Procedures.

¹ The Student Behaviour Strategy at p. 7, published at https://education.nsw.gov.au/content/dam/main-education/student-wellbeing/attendance-behaviour-and-engagement/media/Student_Behaviour_Strategy.pdf.

² Statement of Frank Potter dated 7 October 2020, Exhibit 7-86 (STAT.0182.0001.0023)

7. Key proposed changes to the Department's Student Discipline in Government Schools Policy³ (**Student Discipline Policy**) and Suspension and Expulsion of School Students Procedures⁴ (**Suspension and Expulsion Procedures**) include:
- a. clearly defining objectives and accountabilities;
 - b. a new focus on student-centred, positive and inclusionary behaviour support and management approach;
 - c. providing guidance for staff to understand and support each student's individual circumstances, needs and the reasons for their behaviour;
 - d. new resources to identify a range of evidence-based interventions and support options;
 - e. revised timeframes, categories and grounds for suspension and expulsion;
 - f. more guidance incorporating procedural fairness requirements, a new process to issue a formal caution to suspend and a requirement to issue a formal caution to expel;
 - g. improved guidance to support students returning from suspensions to ensure their engagement with the school;
 - h. consideration of alternate programs that may aid a successful return to school; and
 - i. additional templates and guidance materials to support schools in the implementation of the Student Discipline Policy and Suspension and Expulsion Procedures.
8. The Department is continuing to consult with various stakeholders in relation to the Student Behaviour Strategy.

Data on suspension and expulsion for First Nations students

9. The Department calculates student suspension rates by dividing the number of students in a distinct cohort that received one or more suspensions with the total number of students in the cohort. The Department's data indicates that:

³ The Student Discipline in Government Schools Policy is published at <https://education.nsw.gov.au/policy-library/policies/pd-2006-0316>.

⁴ Suspension and Expulsion of School Students – Procedures 2011, Exhibit 7-86.6 (NSW.0029.0001.2467)

- a. amongst all students in NSW public schools:
 - i. in 2019, 4.9% of this student cohort were suspended;
 - ii. in 2020, 4.5% of this student cohort were suspended.
- b. amongst students with a disability who received adjustments to access education:
 - i. in 2019, 13.4% of this student cohort were suspended;
 - ii. in 2020, 11.7% of this student cohort were suspended.
- c. amongst students without a disability:
 - i. in 2019, 3.3% of this student cohort were suspended;
 - ii. in 2020, 3% of this student cohort were suspended.
- d. amongst First Nations students with a disability who received adjustments to access education:
 - i. in 2019, 25.1% of this student cohort were suspended;
 - ii. in 2020, 22.1% of this student cohort were suspended.
- e. amongst non-First Nations students with a disability who received adjustments to access education:
 - i. in 2019, 11.1% of this student cohort were suspended;
 - ii. in 2020, 9.6% of this student cohort were suspended.

10. In relation to expulsion:

- a. in 2019, 270 students were expelled from NSW public schools. Of these:
 - i. 60 students were identified as students with disability who received adjustments to access education;

- ii. 24 students were identified as First Nations students with disability who received adjustments to access education.
- b. in 2020, 275 students were expelled from NSW public schools. Of these:
 - i. 75 students were identified as students with disability who received adjustments to access education;
 - ii. 19 students were identified as First Nations students with disability who received adjustments to access education.

Question 1 (Commissioner Mason)

The question asked by Commissioner Mason at *Transcript, Public hearing 7, 7 May 2021, P-516 [38] 517 [1]*, paraphrased as follows:

- c. **Are culturally and linguistically diverse students with disability disproportionately expelled and/or suspended from New South Wales government schools?**
- d. **What action is the State of New South Wales taking to ensure that culturally and linguistically diverse students with disability are not disproportionately expelled and/or suspended from New South Wales government schools?**

CALD students with disability and suspensions/expulsions

- 11. The Department has identified culturally and linguistically diverse (CALD) students as a vulnerable student cohort that are disproportionately likely to be suspended compared to their peers.
- 12. The Department does not have specific policies or programs that relate only to CALD students with disability in relation to suspensions, exclusions and expulsions. Initiatives under the Student Behaviour Strategy and Personalised Learning and Support are initiatives that apply to CALD students with disability.

Policies for CALD students

- 13. The Department has specific policies for CALD students, including CALD students with disability. In summary, these are the:

- a. **Anti-Racism Policy**⁵ – which commits the Department to the elimination of all forms of racial discrimination in NSW public schools, including direct and indirect racism, racial vilification and harassment. The Anti-Racism Policy applies to all employees and students at NSW public schools, and all aspects of the learning and working environment; and
- b. **Multicultural Education Policy**⁶ – which responds to the cultural, linguistic and religious diversity of NSW. It commits schools to implementing practices that recognise and respect the cultural, linguistic and religious backgrounds of all students, including those with disability, and to promoting positive community relations through effective communication with parents and community members from diverse cultural, linguistic and religious backgrounds.

14. The Department provides translations of important information relevant to all or most schools, including information about suspension and expulsion.⁷ The translated material, in up to 35 languages, includes an information brochure on how to appeal suspensions and expulsions and a range of letters for schools to communicate with parents.

15. Schools are encouraged to use interpreters to assist in communication with parents or careers who do not speak or understand English well, or who are deaf or have a hearing or speech impairment.

Data on suspension and expulsion for CALD students

16. The Department calculates student suspension rate by dividing the number of students in a distinct cohort that received one or more suspensions over the total number of students in the cohort. The Department's data indicates that:

- a. amongst students with a language background other than English (**LBOTE**) with a disability who received adjustment to access education:
 - i. in 2019, 8.5% of this student cohort were suspended;
 - ii. in 2020, 7.7% of this student cohort were suspended.

⁵ The Department's Anti-Racism Policy is published at <https://education.nsw.gov.au/policy-library/policies/pd-2005-0235>.

⁶ The Department's Multicultural Education Policy is published at <https://education.nsw.gov.au/policy-library/policies/pd-2005-0234>.

⁷ Access to the Department's translated documents is available at <https://education.nsw.gov.au/public-schools/going-to-a-public-school/translated-documents>.

- b. amongst non-LBOTE students with disability who received adjustment to access education:
 - i. in 2019, 15.1% of this student cohort were suspended;
 - ii. in 2020, 13.2% of this student cohort were suspended.
- c. Amongst LBOTE students without disability who received adjustment to access education:
 - i. in 2019, 2.20% of this student cohort were suspended;
 - ii. in 2020, 2.10% of this student cohort were suspended.

17. In relation to expulsion:

- a. in 2019, 270 students were expelled from NSW public schools. Of these:
 - i. 60 students were identified as students with disability who received adjustments to access education;
 - ii. 8 students were identified as LBOTE students with disability who received adjustments to access education.
- b. in 2020, 275 students were from expelled in NSW public schools. Of these:
 - i. 75 students were identified as students with disability who received adjustments to access education;
 - ii. 8 students were identified as LBOTE students with disability who received adjustments to access education.

Question 2 (Commissioner Mason)

The question asked by Commissioner Mason at *Transcript, Public hearing 7, 7 May 2021, P-517 [15-21]*, paraphrased as follows:

What is the State of New South Wales doing to ensure that First Nations students with disability receive an inclusive education which is culturally safe and provided in a culturally competent manner?

Programs and supports for First Nations students with disability

18. One of the New South Wales Premier's Priorities 2023 is to increase First Nations students attaining their HSC by 50% by 2023, while maintaining their cultural identity (**Premier's Priority**).⁸ The Premier's Priority aims to improve educational outcomes for all First Nations students, including those with disability. The Premier's Priority is also one of the targets of the Department's School Success Model.⁹
19. The Department is committed to improving the educational outcomes and wellbeing of First Nations students so that they excel and achieve in every aspect of their education, as set out in its Aboriginal Education Policy.¹⁰ The Policy includes commitments to the goal that First Nations students will match or better the outcomes of the broader student population, increasing the knowledge and understanding of the histories, cultures and experiences of First Nations peoples of all staff and students, and collaborative decision-making with First Nations parents, caregivers and communities. The Department sets out how it is implementing the Aboriginal Education Policy in *Turning Policy into Action*.¹¹
20. The Department has specific programs and supports for First Nations students, including those with disability. In summary, these are set out below.
- a. The **Connected Communities Strategy** uses community involvement, government and non-government agency resourcing and responsibility, formal First Nations community partnerships and culturally responsive teaching practices to aim for better educational outcomes for all students at Connected Communities schools.
 - i. The Connected Communities Strategy is currently being implemented in 21 schools across the State. They are Boggabilla Central School, Bourke High School, Bourke Public School, Bowraville Central School, Brewarrina Central School, Coonamble High School, Coonamble Public School, Hillvue Public

⁸ Information about the Premier's Priority of Increasing the number of Aboriginal young people reaching their learning potential is available at <https://www.nsw.gov.au/premiers-priorities/increasing-number-of-aboriginal-young-people-reaching-their-learning-potential>.

⁹ *The School Success Model Building on the Local Schools, Local Decisions reforms* is published at <https://education.nsw.gov.au/content/dam/main-education/en/home/public-schools/school-success-model/The-School-Success-Model.pdf>.

¹⁰ The Department's Aboriginal Education Policy is published at <https://education.nsw.gov.au/policy-library/policies/pd-2008-0385>.

¹¹ *Turning Policy into Action* is published at <https://education.nsw.gov.au/content/dam/main-education/teaching-and-learning/aec/media/documents/TurningPolicyintoAction.pdf>.

School (Tamworth), Kempsey South Public School, Kempsey West Public School, Menindee Central School, Melville High School (Kempsey), Moree East Public School, Moree Secondary College, Shoalhaven High School (Nowra), Taree High School, Taree Public School, Toomelah Public School, Walgett Community College - High School, Walgett Community College - Public School and Wilcannia Central School.

ii. Supports provided by Connected Communities schools include:

- tailoring approaches to address issues around suspension, including engaging the student and family early to make sure there are structured supports in place prior to any suspension resolution;
- promoting intersectional approaches to service delivery that acknowledge the interactions between mental, physical, cultural and spiritual health, recognise the ongoing impacts of trauma and loss experienced by First Nations peoples, and prioritising local First Nations cultural knowledge and practices (including the promotion of local partnerships); and
- adopting a “Healing and Wellbeing Model” that provides support and assistance in addressing issues of trauma as is currently experienced by First Nations students, their families and their communities. This provides professional training and support to school staff and opportunities for local First Nations community members to broaden their knowledge and skill base in counselling and youth work, so as to enable them to assist students to maximise their educational experience.

- b. The **Clontarf Foundation and National Aboriginal Sporting Chance Academy (NASCA)** deliver mentoring and support programs to First Nations students from Years 7 to 12 to. The programs seek to assist enrolled students with school engagement, completing their school education and securing employment or enrolment in further education and training. Delivery of programs is determined by the local needs of the school and

students, and negotiated between the Contarf Foundation, NASCA, School Executive and Directors, Educational Leadership.

- c. **Aboriginal Language and Culture Nests** are an initiative of *OCHRE*, the New South Wales Government's plan for Aboriginal Affairs. The initiative seeks to promote the learning of a First Nations language for First Nations and non-First Nations students in public schools and other educational institutions. Aboriginal Language and Culture Nests are delivered by the Department's Aboriginal Education and Communities Directorate.
- d. The **Integration Funding Support** team includes an Aboriginal Education and Wellbeing Advisor to make sure that a First Nations perspective is applied to First Nations students with disability seeking support.
- e. **Aboriginal Learning and Engagement Centres** support First Nations students with Personalised Learning Pathways, individualised support for literacy and numeracy, customised support for organisation and tutoring as well as some cultural and community connections. There are 17 Aboriginal Learning and Engagement Centres located in regional, rural and remote areas, including Gunnedah High School, Murrumbidgee High School, Canobolas High School, Rutherford High School, Irrawang High School, Callaghan College, Mount Austin High School, Armidale High School, Ballina Coast High School, Moree Secondary College, Northlakes High School, Cessnock High School, Narrandera High School, Tamworth High School, Oxley High School, Peel High School and Corrimall High School.
- f. **Pirru Thangkuray** is a cultural engagement and goal setting program developed by the NSW Aboriginal Education Consultative Group (**AECG**). The AECG delivers the program in 19 school sites across metropolitan, regional, outer regional and remote NSW. The locations include Dubbo College Delroy Campus, Dubbo College Senior Campus, Dubbo College South Campus, Narromine High School, Peak Hill Central School, Narooma High School, Narooma High School, Batemans Bay High School, Walgett Central School, Collarenebri Central School, Tuggerah Lakes Secondary College The Entrance Campus, Tuggerah Lakes Secondary College Tumby Umbi Campus, Gorokan High School, Casino High School, Kyogle High School, Bidwell Campus, Dunheved Campus, Mount Druitt Campus and Chifley Senior Campus.

- g. **Professional learning** is available for teachers and school staff to enhance their understanding of the Aboriginal Education Policy, strategies to improve outcomes for First Nations students, and Aboriginal histories and culture.
 - h. **Community Connectors** is a pilot program operating in Orange and Tamworth which has been set up to ensure that First Nations students in Year 10 are able to access culturally appropriate educational, counselling and social support services in order to remain engaged with school and complete their HSC.
21. There are also other general programs and supports for students with disability, including First Nations students. These include personalised learning and support, which is known as the Personalised Learning Pathway (**PLP**). The Department recommends that all First Nations students have a PLP, which is developed in a consultation process between the student, parents/carers and teachers. The aim is to identify, organise and apply personal approaches to learning and engagement. PLPs can have short term or long term goals.

Remote School Attendance Strategy

22. The Remote School Attendance Strategy (**RSAS**) is administered by the Commonwealth Government through the National Indigenous Australians Agency. The RSAS is implemented by the Department at four Connected Communities schools: Wilcannia Central School, Brewarrina Central School and Walgett Community College Primary and Secondary campuses. The focus of the RSAS is on school attendance and following up on student absences for First Nations students.
23. Each of these schools works closely with local service providers to employ RSAS teams of school attendance supervisors and school attendance officers to help students get to school. The team members are local people from the community. For example, at one of these schools, the Deputy Principal – Wellbeing and local RSAS team work together to deliver initiatives that support attendance, including a late pick up service, lunches and a rewards program for students with consistent attendance.

Question 3 (Commissioner Mason)

The questions asked by Commissioner Mason at *Transcript, Public hearing 7, 7 May 2021, P-517 [27-33]*, paraphrased as follows:

- a. **How is funding provided, monitored and reviewed for First Nations students with disability separately from other students with disability?**
- b. **What is the impact of this funding on the educational outcomes of First Nations students with disability?**
- c. **How is funding provided, monitored and reviewed for culturally and linguistically diverse students with disability separately from other students with disability?**
- d. **What is the impact of this funding on the educational outcomes of culturally and linguistically diverse students with disability?**

24. Mr Potter's statement sets out in detail [70– 97] how funding is provided, monitored and reviewed for First Nations students, CALD students, and students with disability.¹²

25. Mr Potter's statement sets out, among other matters, how funding is provided through the Resource Allocation Model in NSW schools and the use of equity loadings for First Nations students, students for which English is an additional language or dialect, and students with additional learning and support needs.

26. Mr Potter's statement sets out how funding is reviewed and monitored through the schools planning process, Annual Report and School Budget Allocation Report [71, 77, 85].¹³ Data is kept on the level of student need at schools which receive equity funding and Integration Funding Support [79, 80, 85, 86-92].¹⁴

27. All students with disability who have an adjustment to access their learning are recorded by schools in the annual *Nationally Consistent Collection of Data on School Students with Disability (NCCD)*. This data is required by the Commonwealth to calculate the Students with Disability (**SWD**) loading for each education jurisdiction. As part of this process, schools are required to have evidence of the adjustment provided for each student and to monitor and review the adjustment.

¹² Statement of Frank Potter dated 7 October 2020, Exhibit 7-86 (STAT.0182.0001.0023)

¹³ Statement of Frank Potter dated 7 October 2020, Exhibit 7-86 (STAT.0182.0001.0023)

¹⁴ Statement of Frank Potter dated 7 October 2020, Exhibit 7-86 (STAT.0182.0001.0023)

28. Data which distinguishes between First Nations or CALD students with disability from other students with disability is not collected as part of the NCCD. Analysis of specific cohorts of students with disability requires linking different datasets can be undertaken on request.

29. The Department is not able to measure the impact of funding for First Nations students with disability and CALD students with disability.

Question 4: (Commissioner Galbally)

The question asked by Commissioner Galbally at *Transcript, Public hearing 7, 7 May 2021, P-517 [43-47]*, paraphrased as follows:

What is the State of New South Wales doing to systematically tackle the stigma experienced by some students with disability trying to access an education in mainstream New South Wales government schools?

30. The Department's Disability Strategy 2019¹⁵ outlines its commitment to building a more inclusive education system, one where all students feel welcomed and are learning to their fullest capability. Under the Disability Strategy, inclusive education means that "all students, regardless of disability, ethnicity, socio-economic status, nationality, language, gender, sexual orientation or faith, can access and fully participate in learning, alongside their similar aged peers, supported by reasonable adjustments and teaching strategies to meet their individual needs".

31. The Department's Inclusive Education Statement¹⁶ builds on the commitment to inclusive education set out in the Disability Strategy. It is a key step in addressing any stigma that continues to exist within school communities. The Department developed the Inclusive Education Statement in consultation with educators, disability experts and families and carers. It identifies the following six principles of inclusive practice, summarised below, that aim to improve the learning and wellbeing for students with disability in every classroom in all public schools:

- a. **student agency and self-determination:** students have a voice, are supported to express their views, and participate in decisions that affect them;

¹⁵ Disability Strategy 2019, Exhibit 7-86.2 (NSW.0029.0018.0005)

¹⁶ The Inclusive Education Statement is published at: <https://education.nsw.gov.au/content/dam/main-education/teaching-and-learning/disability-learning-and-support/our-disability-strategy/inclusive-education/Inclusive-Education-Statement.pdf>. An easy-read version is available at: https://education.nsw.gov.au/content/dam/main-education/teaching-and-learning/disability-learning-and-support/our-disability-strategy/inclusive-education/Inclusive-Education-Statement_Easy-Read.pdf.

- b. **parent and carer inclusion:** teachers and schools work in partnership with the student's parents/carers and support people to achieve the best outcomes for their child's education, using collaborative approaches to plan and achieve agreed and measurable outcomes for every student;
- c. **social and cultural inclusion:** all students are welcomed and supported to build relationships with their peers, while the school community embraces all learners, has respect for, and values diversity;
- d. **curriculum inclusion:** schools use student-centred education planning, reasonable adjustments and differentiated teaching, learning and assessment activities;
- e. **workforce capability for inclusion:** students with disability have equitable access to quality teaching that meets individual needs, delivers excellent educational outcomes and empowers students and their families with agency and choice to improve their school experience; and
- f. **system inclusion:** inclusion is embedded in all aspects of school life, and is supported by culture, policies and everyday practices in NSW public schools. Inclusive practice is evident in classrooms, schools, school leadership, and across all staff who support schools.

32. The Department has other key initiatives that will build inclusive practices across all NSW Government schools, including the Student Behaviour Strategy. It is increasing the capacity of its workforce to build a more inclusive education system through a number of initiatives including:

- a. **mandating Disability Standards for Education Leaders training (DSE Leaders training)** in 2020 for all school leaders who are substantive, relieving or acting in the roles of Director Educational Leadership, Principal, Deputy Principal, Assistant Principal and Head Teacher. This is because creating inclusive culture in schools starts with school leaders. Mandating this training is intended to improve the skills and knowledge of school leaders to lead an inclusive school. As at 13 May 2021, 95.29% of school leaders have completed DSE Leaders training. In addition, to the mandated training, the following online courses are available for all staff:

- i. Disability Standards for Education Leaders;
 - ii. Disability Standards for Education for senior secondary;
 - iii. Disability Standards for Education for junior secondary;
 - iv. Disability Standards for Education for primary schools;
 - v. Disability Standards for Education for education assistants;
 - vi. Disability Standards for Education for early childhood (school); and
 - vii. Disability Standards for Education for early childhood (prior to school).
- b. **Specialist training courses** are available in technology, dyslexia, autism spectrum disorder, speech language and communication, supporting behaviour, dyspraxia and motor coordination, hearing loss, personalised learning and support and supporting student wellbeing and mental health.
- c. **Trauma-informed Practice for improved Learning and Wellbeing training** was made available to schools across the state at the end of Term 1, 2021 and, so far, more than 210 schools have requested the training. There are more than 200 trained facilitators across the state who are available to deliver the course wherever it is required. Two advanced courses in trauma-informed practice that were co-designed with Berry Street Education Model are being piloted and will be available to staff across the state in Term 4, 2021.
- d. **Training for non-teaching staff in schools in Welcoming and Guiding Families of Students with Disability training** was developed and implemented in 2020. It provides an overview of students with disability in NSW, guidance on how to support families of students with disability during their interactions with a school, and information on legal obligations such as the *Disability Standards for Education 2005*. As at 20 June 2021, 391 staff have completed this training.
- e. **Induction for leaders:** “Leading an inclusive school for students with disability” is a dedicated component within the induction program for newly appointed and relieving principals, deputy principals, assistant principals and head teachers in 2021. This

professional learning incorporates the Inclusive Education Statement, social and cultural inclusion, legal obligations, leading an inclusive school culture and practical tips to excel in inclusion.

- f. **Inclusive Education Policy for Students with Disability** is being developed for release in 2021, to clarify the roles and responsibilities of staff. The policy will be supported by a suite of practice resources to support schools with inclusive practice.
- g. The **Inclusive Learning Support hub** was launched in November 2020, on the Department's website for parents and carers of students with additional learning and support needs and disability.¹⁷ This online resource provides parents and carers with a single place to find information on enrolment, support and adjustments and the learning options available to students with disability in NSW public schools. It was co-designed and tested with parents of children with additional learning and support needs and disability. The Inclusive Learning Support hub contains information, interactive tools and downloadable resources to assist parents and carers start planning early with schools to enable supports to be in place when their child starts school. The tools and resources include:
 - i. a local school finder tool that enables parents and carers to easily identify which school to contact about enrolling their child; and
 - ii. a personalised enrolment timeline tool that provides a high-level overview of the steps involved in enrolling and the timeline for when each step will occur as well as an opt-in text or email reminder for parents when it is time to contact their local school; and
 - iii. information on the supports provided by the Department, how to apply for these supports and what to expect throughout the process.
- h. Work is currently underway to deliver further resources, being conversation aids that focus on supporting both school staff and parents to navigate the early conversations and to ensure that the conversations are productive, supportive and empowering. The pilot for these materials is planned for Term 3 this year.

¹⁷ The Inclusive Learning Support hub is located at: <https://education.nsw.gov.au/parents-and-carers/inclusive-learning-support>

Question 5 (Commissioner Galbally)

The question asked by Commissioner Galbally as set out at *Transcript, Public hearing 7, 7 May 2021, P-518 [3-4]*.

How can restraint be defended as a reasonable adjustment when it manifestly fails to remove barriers?

33. Clause 3.4 of the *Disability Standards for Education 2005 (DSE)* defines a reasonable adjustment as one that balances the interests of all parties affected. It then provides a non-exhaustive list of matters to be taken into account in assessing whether a particular adjustment is reasonable. That list includes the effect of the proposed adjustment on anyone else affected. It follows that the question of what is a reasonable adjustment in a particular circumstance will be dictated by those circumstances and requires the decision maker to balance the interests of all those affected.
34. There is no nationally recognised definition of restraint in the education context. The DSE do not define restraint.
35. The State of New South Wales accepts that, in the circumstances identified in Public Hearing 7, the restraint of Sam was not a reasonable adjustment: see State's written submissions at [55].

Restraint as a reasonable adjustment

36. All schools are required to make reasonable adjustments for students with disability in accordance with the DSE. A reasonable adjustment enables students with disability to access and participate in education and training on the same basis as learners without disability.
37. In this context, the following physical restraints may be a reasonable adjustment:
 - a. the use of a hands-on technique that guides or redirects a person away from a reasonably foreseeable injury or is a reasonable response to an immediate danger. For example, a kindergarten student who is undertaking a fine-motor activity involving scissors and needs an adjustment to safely use the equipment;

- b. temporary physical contact, such as an open hand on the arm, back or shoulders to remove a student from a situation to a safer place. For example, a student moving too close to an open flame being used during a learning activity; and
 - c. supporting a student to move to another location or helping them into a vehicle or use the stairs.
38. An example of mechanical restraint that might be a reasonable adjustment is the use of devices for therapeutic or non-behavioural purposes, such as devices to assist a person with functional activities, as part of occupational therapy, or to allow for safe transportation.
39. An example of a chemical restraint that might be a reasonable adjustment is the giving of medication as prescribed by a medical practitioner for the treatment of, or to enable treatment of, a diagnosed mental disorder, a physical illness or physical condition.
40. An example of an environmental restraint that might be a reasonable adjustment is a limitation on access to a particular environment, item, activity or experience through the use of locks on cupboards, doors, gates and boundaries based on a student or class of students' age, development and stage of learning in order to protect students' health and safety.
41. The Department is developing a Restrictive Practices Policy and guidance material for schools, which is in the early stages of consultation.

Question 6 (Commissioner Galbally)

The questions asked by Commissioner Galbally at *Transcript, Public hearing 7, 7 May 2021, P-518 [15-40]*, paraphrased as follows:

- a. **Are there any plans in the State of New South Wales to introduce a complaints mechanism which is independent of the New South Wales Department of Education (like, for example, a Quality and Safeguards Commission)? If so, what is that mechanism and what are the timeframes for its introduction? If not, why not?**
42. The Department's complaint handling policy and procedures are currently under review. The Department will consider, within the scope of this review, options for an independent mechanism within its complaints handling approach.

Complaints Handling System

43. The Department's Complaints Handling Policy¹⁸ and School Community and Consumer Complaint Procedure¹⁹ (collectively, the **Complaints Policy and Procedure**) promote the local handling of complaints and concerns from parents, carers, students and community members where possible.
44. The Complaints Policy and Procedure require that, following the decision being made about a complaint, any review of that decision must be conducted by a more senior officer than or at least an equivalent level to the person who made the decision about the complaint. The reviewing officer must not be the subject of the complaint or have been involved in decision making about the complaint.

External Options

45. A complainant can, in certain circumstances set out in the enabling legislation, complain to one or more of the following:
- a. NSW Ombudsman;
 - b. Independent Commission Against Corruption (**ICAC**);
 - c. NSW Anti-Discrimination Board;
 - d. NSW Civil and Administrative Tribunal; and
 - e. Human Rights Commission.
46. The NSW Ombudsman's Office is an independent integrity agency that handles complaints, reviews, monitors, investigates and provides advice in relation to Government agencies, including the Department.
47. The ICAC can investigate complaints relating to corruption involving the Department.

¹⁸ The Complaints Handling Policy is published at <https://education.nsw.gov.au/policy-library/policies/pd-2002-0051>

¹⁹ The School Community and Consumer Complaint Procedure is published at https://education.nsw.gov.au/content/dam/main-education/policy-library/associated-documents/School-complaint-procedure_AC.pdf

48. In certain circumstances, the NSW Anti-Discrimination Board, NSW Civil and Administrative Tribunal and/or the Human Rights Commission, may investigate and/ or review complaints about the Department and its services.

Complaints Handling Team and Resources

49. The Department's Feedback and Complaints Team (**Complaints Team**) works to improve the way that complaints from families, students and community members are managed under the Complaints Policy and Procedure. The Complaints Team does not manage complaints directly, as the Department's approach is to promote the local resolution of complaints.

50. The Complaints Team has developed the following resources to underpin the complaints process, including:

- a. **E-Learning modules** 'Managing Complaints under the School Community and Consumer Complaint Procedure - for teaching staff' and 'Complaints and Customer Service in Schools - school-based non-teaching staff';
- b. **Guides** including the following:
 - i. a quick guide to making a complaint – a one page document summarising the complaints process that is available in English and 15 community languages and is accessible online;
 - ii. a detailed guide to making a complaint about public schools – this provides detailed advice about the complaints process and how to make a complaint, including information about complaints relating to students with disability, the pathways for students in making complaints, and how to make a complaint after leaving a school; and
 - iii. a pamphlet titled 'Need Help in Making a Complaint?' which provides information about support persons and advocates, and is available in English and 15 community languages; and
 - iv. materials that schools can use to promote a positive feedback culture with their school community, such as items for discussion at Parents and Citizens'

meetings or for inclusion in newsletters or school/ stage handbooks, a part of the staff-only complaint managers' toolkit.

51. The Department is currently reviewing and developing further resources to improve the complaints process, including:

- a. **new professional learning materials** including a new e-learning module for school based staff and complaint managers tailored specifically to raise awareness and understanding about effectively managing complaints relating to students with disability. The module contains information from the Department's Disability Strategy, Disability Inclusion Action Plan, Complaints Policy (2017), School Community and Consumer Complaint Procedure (2017), Complaint Manager's Toolkit, and the Government's six principles to Effective Complaint Handling;
- b. **resources for schools for managing complaints from First Nations families** including resources for principals and school staff about building relationships with First Nations families at school; a guide for principals and school staff when engaging with First Nations families in receiving and resolving complaints; and a document for First Nations parents/carers/families about how to raise a complaint at the local school level;
- c. **information for students and parents** – publications on the Department's homepage for students and parents about the complaints process and what they can make a complaint about;
- d. **information for the Executive** – improving the data capture on complaints, and increasing the transparency of complaint data to the Executive, drawing out key themes and opportunities for improvement;
- e. **redesigning the complaints page** on the Department's website, to help make the complaints process easier for parents and students;
- f. **enhancements to the Department's complaints system** to improve the reliability of data with respect to complaints about students with disability, and students from a First Nations or CALD background; and

- g. **improving the escalation process** so that escalated complaints that cannot be dealt with satisfactorily at school level are managed professionally by the right team with the resources to seek satisfactory resolution.

Question 6 (Commissioner Galbally)

The questions asked by Commissioner Galbally at *Transcript, Public hearing 7, 7 May 2021, P-518 [15-40]*, paraphrased as follows:

- b. **What are the current ways in which the State of New South Wales provides supports to parents trying to enrol their child in a New South Wales government school and to obtain supports for their child whilst at school (such as, for example, the provision of funding for advocacy services)?**
- c. **Does the State of New South Wales have any plans to increase these supports for parents trying to navigate the system? If so, what are these plans and when will they be implemented?**

52. The Department is in the early stages of reviewing the provision of advocacy services to increase supports to parents and carers of children with disability. The Department recognises there may be utility in the provision of tailored advocacy support for families and carers who require this additional assistance. This review will incorporate findings from the NSW Ageing and Disability Commissioner's 2019 review of disability advocacy services. This found that the system of disability advocacy services in NSW was fragmented, inequitable and often confusing.²⁰

53. The Department has a number of ways to provide supports to parents trying to enrol their child at NSW government schools and whilst at school:

- a. **Disability Strategy 2019²¹** – a central commitment is to improve the experience of families of children with disability by creating an online resource with information for families and carers, streamlining the processes by which families access support at schools and improving response rates to concerns and complaints;
- b. **Inclusive Learning Support hub** which is discussed in answer to question 4;

²⁰ Report: *Review into Disability Advocacy in NSW*, NSW Ageing and Disability Commissioner, 19 December 2019, p.8

²¹ Disability Strategy 2019, Exhibit 7-86.2 (NSW.0029.0018.0005)

- c. **Enrolment improvements** – in 2020 the Department obtained and incorporated the views of parents and carers of children with disability when developing improved enrolment information for parents and carers for their child’s early years before starting at school;
- d. **Attendance communication trial** – parents and carers will be provided with information about what their child is learning at school. This should improve attendance at school by engaging parents and carers in improving the attendance their children. The Department has also developed and is currently implementing new resources for non-teaching staff on welcoming and guiding families of students with disability;
- e. **Special Education Grant-in-Aid funding** – in 2021, grants were provided to five key community organisations that provide support to parents and communities for children with additional learning and support needs.

Question 7 (Commissioner Galbally)

While not asked at the hearing, Commissioner Galbally has requested the State of New South Wales also provide an answer to the following question:

What is the current status of the roll out of positive behaviour learning in New South Wales government schools? That is:

- a. **How many schools have had positive behaviour learning implemented?**
 - b. **Is the plan for positive behaviour learning to be implemented in all other schools, if so, by when?**
 - c. **What are the key performance indicators that the New South Wales Department of Education is using in order to track the success, or otherwise, of the implementation of positive behaviour in schools?**
54. The Department has a Positive Behaviour for Learning (**PBL**) framework, which is a whole-of-school approach that aims to create a positive, safe and supportive school climate in which students can learn and develop.²²

²² Information about the PBL framework is available at <https://education.nsw.gov.au/student-wellbeing/attendance-behaviour-and-engagement/positive-behaviour-for-learning.html>

55. In 2015, the Department introduced the “Supported Students, Successful Students” funding package. This included \$15 million in funding over four years to support schools to implement PBL. Under the package, the Department employed 32 PBL coach mentors and four PBL deputy principals. On 8 February 2021, the Department’s Centre for Education Statistics and Evaluation published an evaluation report on this package.²³ Its key findings were that:

- a. PBL provides a clear and transparent framework for school-wide systems of managing behaviour, with schools very likely to recommend it as a behaviour management framework;
- b. schools perceive that PBL is having a positive impact on student wellbeing and reducing inappropriate behaviour at the universal level. Schools used internal data and feedback from parents to support their claims;
- c. there is no evidence of a difference between PBL and non-PBL schools in attendance rates and suspension. However, data limitations, including the absence of centrally available behaviour incident data and differences in the ways schools record attendance and suspension data, may impact these findings; and
- d. PBL deputy principals, coach mentors and school services staff have stated that implementation of the full three-tiered framework is challenging and time-consuming and that schools require additional professional learning and resources to support students in need (targeted and individual support, tiers 2 and 3 of the framework).

56. In answer to Commissioner Galbally’s questions:

- a. between 2015 and December 2020, 1,608 NSW public schools implemented the PBL framework. This is over 70% of the total number of public schools in NSW (ie. 2,209 schools);
- b. there is no current plan to implement PBL in all schools. Although schools are not required to implement the framework, the principles of positive behaviour support are embedded in the Student Behaviour Strategy. The previous face to face training provided is being redeveloped into self-paced online learning. PBL Tier 1 eLearning is available with the remaining tiers becoming progressively available prior to the start

²³ See the report titled *Supported Students, Successful Students Positive Behaviour for Learning evaluation – final report*, published at <https://education.nsw.gov.au/content/dam/main-education/about-us/educational-data/cese/positive-behaviour-learning-pbl-evaluation-report.pdf>

of the 2022 school year. This professional learning is available for all school staff to implement at their own pace, including individual teachers, who may find the interventions and strategies useful where the whole school is not implementing PBL; and

- c. the Department does not have key performance indicators for the implementation of PBL by schools. However, the Department has evaluated PBL as set out above. The report of the evaluation sets out the methodology used and the questions asked in undertaking the evaluation. Thus, there is information available to the Department to track the success, or otherwise, of the implementation of positive behaviour in schools.

Question 8 (Chair)

The question asked by the Chair, as set out at *Transcript, Public hearing 7, 7 May 2021, P-520 [39] P-521 [10]*.

How has the NSW Department of Education (the Department) mandated training on the *Disability Standards for Education 2005 (DSE)* for educational leaders in the Department? In particular:

- a. How is the mandatory requirement enforced; and**
- b. Is the training intended to be a substitute for a revision of the procedures to provide guidance to decision makers.**

57. DSE Leaders training is online training developed by the Commonwealth Government. It is designed to help educational leaders fulfil their legal obligations under the *Disability Discrimination Act 1992 (DDA)* and the DSE.

58. School leaders are enrolled into DSE Leaders training within MyPL, the Department's online professional learning platform. Reports from MyPL on the completion of DSE Leaders training by school leaders are regularly provided to the senior executive and to line managers to allow for follow up on an individual basis if required.

59. Mandating the DSE Leaders training is intended to improve the skills and knowledge of school leaders to support students with disability and additional learning needs rather than as a

substitute for revision of procedures when required. Mandating this training was a recognition of the important role a range of school leaders have in meeting legal obligations under the DSE and leading an inclusive school.

60. As at 13 May 2021. 95.29% of school leaders have completed DSE Leaders training. It is expected that the remaining are on long term leave or secondment to roles outside of school leadership, while maintaining a substantive school leadership role.

Question 9 (Chair)

The question asked by the Chair, as set out at *Transcript, Public hearing 7, 7 May 2021, P-521 [30-35]*.

Is the State of NSW undertaking a process of collating data on complaints about bullying, or would it be prepared to give favourable consideration to such a process?

61. The Department recognises that there is no universally accepted definition of bullying. The Department conducted a literature review of bullying which refers to the definition of bullying in the National Safe Schools Framework as:²⁴

“An ongoing misuse of power in relationships through repeated verbal, physical and/or social behaviour that causes physical and/or psychological harm. It can involve an individual or a group misusing their power over one or more persons. Bullying can happen in person or online, and it can be obvious (overt) or hidden (covert). Bullying of any form or for any reason can have long-term effects on those involved, including bystanders. Single incidents and conflict or fights between equals, whether in person or online, are not defined as bullying. However, these conflicts still need to be addressed and resolved. (Australian Government Department of Education and Training 2016)”

62. The Department identifies three key features of bullying in its policies and procedures in which bullying:²⁵

- a. involves a misuse of power in a relationship;

²⁴ See Centre for Education and Statistics, 2017 *Anti-bullying Interventions in schools – what works? Literature Review* at p. 2, https://www.cese.nsw.gov.au/images/stories/PDF/anti_bullying_in_schools_what_works_AA.pdf

²⁵ See Anti-bullying Support for NSW Public Schools: <https://education.nsw.gov.au/student-wellbeing/attendance-behaviour-and-engagement/anti-bullying/anti-bullying-support#What1>

- b. is ongoing and repeated; and
- c. involves behaviours that can cause harm.

63. The Department requires all NSW public schools to have an Anti-Bullying Plan which sets out the strategies which will be implemented to reduce student bullying behaviours.

Complaints About Bullying

64. Under the Department's Bullying of Students – Prevention and Response Policy,²⁶ reports of student bullying can be made to any staff member at a school. Reports can also be made to the Department's Complaints Team.

65. The Department, where possible, refers the complaint to the student's school for resolution. This is because it is likely that there will be a quicker resolution.

66. A teacher or school executive staff (such as the principal, deputy principal, assistant principal or head teacher) at the school must address the reported bullying in a timely manner. If a student, parent or carer believes a matter is not being dealt with effectively, they can refer the matter to the school's principal (or delegate) for resolution. If the student, parent or carer still has concerns after referring the matter to the school's principal (or delegate) or would like advice, they can contact the Learning and Wellbeing Advisor or Officer at the local departmental office. If the matter is then still not resolved, as outlined above, they can contact the Director, Educational Leadership at the local departmental office, who must follow the Complaints Handling Policy.

Data on Complaints

67. There is no centrally available data on complaints in the Department about bullying. Complaints about bullying can be:

- a. made directly to the schools or relevant business unit;
- b. received by Directors, Educational Leadership, for example as a review of a school's handling of a complaint or as a complaint about a principal's decisions or actions; or

²⁶ The Bullying of Students – Prevention and Response Policy is published at <https://education.nsw.gov.au/policy-library/policies/pd-2010-0415>

- c. made through the Department's central digital complaints channel which is on the Department's website. The complaints are received by the Complaints Team, which refers complaints to the student's school for local resolution.
68. Complaints about the bullying of students are managed under the School Community and Consumer Complaint Procedure. In 2018, the Department implemented a Feedback and Complaints System (**Complaints System**) to record and report on complaints. However the Complaints System is not currently used to capture complaints made and resolved locally by schools or other business units.
69. Whilst the Complaints System has the capacity to do this, there is no requirement to centrally record these complaints due to the administrative burden that this would create for schools and the expense of rolling the system out to staff at the school level. The Complaints System does capture data received by Directors, Educational Leadership and complaints made through the central digital complaints channel.
70. Directors, Educational Leadership and Executive Directors, School Performance have real-time access to complaint data through a series of dashboards and reports in the system. This includes information about complaints relating to the bullying of students by students, which can be used to inform practice improvements.
71. The Department is considering the most appropriate method to collate data on bullying. The Complaints Team are currently considering the resources and costs required to enable centralised reporting about the number of complaints in relation to the bullying of students, including the requirements for licences, user support and training expenses to access the Complaints System.
72. The Department is currently working to enhance the Complaints System to enable more accurate reporting with respect to complaints about students with disability, students from an Aboriginal background, and students from a CALD background. These enhancements are due to go live in the second half of 2021.

Question 10 (Chair)

The question asked by the Chair, as set out at *Transcript, Public hearing 7, 7 May 2021, P-522 [13-23]*.

What is meant by the statement “Inclusion is a practice not a setting” (at [120] of State of NSW’s submissions), with reference to the Department’s definition of inclusive education that is adopted in the State of NSW’s *Disability Strategy 2019* (at [118] of the State of NSW’s submissions):

“Under the Strategy, inclusive education in NSW is defined as all students, regardless of disability, ethnicity, socio-economic status, nationality, language, gender, sexual orientation or faith, can access and fully participate in learning, alongside their similar aged peers, supported by reasonable adjustments and teaching strategies tailored to meet their individual needs. Inclusion is embedded in all aspects of school life, and is supported by culture, policies and everyday practices.”

Question 11 (Chair)

The question asked by the Chair, as set out at *Transcript, Public hearing 7, 7 May 2021, P-522 [25-30]*.

How is the definition of “inclusive education” consistent with what appears to be an expansion of Schools for Special Purposes established under s. 29(1) of the *Education Act 1990*. How does the State of NSW explain or support the definition of inclusive education with the role that is played by Schools for Specific Purposes?

73. In the State’s written submissions, the State made a number of submissions about inclusive education. They are not repeated in this answer.

74. At paragraph 120 of its written submissions, the State submitted: “In NSW, inclusion is a practice not a setting. The State does not view the existence of special education settings as

mutually exclusive with the goal of inclusive education. Rather, it is seen as an education option for students with disability that best meets their needs.”

Inclusion generally

75. Inclusive education in NSW public schools is an ongoing process of evaluation and reform at all levels across the Department: in classrooms, schools, and networks, and in policy, practice, projects and culture.

76. The Department will continue to work with parents, carers and disability and education experts to personalise support so that every student is engaged and learning to their fullest capability. For most students, this means attending their local school with individualised support. For some students, it may also mean attending more than one learning environment during their education. For example, attending a school for specific purposes, or a support class in a primary or secondary school.

77. The majority of students with disability (97%) learn in mainstream schools with individualised support.

Building the evidence base

78. The Disability Strategy 2019²⁷ highlighted the Department’s commitment to building a more inclusive education system for students with disability.

79. The Department commissioned research which resulted in the publication in 2020 of *A Review and Synthesis of Educational Supports for Students with Disability: Evidence-Based Practices in Australia* by University of NSW academics²⁸.

80. This review of existing international and Australian research does not provide clarity on what educational settings produce the best outcomes for students with disability. The research uses different definitions and criteria for inclusion, educational settings, outcomes and levels of support, which makes it difficult to compare results and draw conclusions.

81. In terms of Australian research, the review found there was a relatively equal number of research studies focusing on mainstream and on specialised settings, or on both mainstream

²⁷ Disability Strategy 2019, Exhibit 7-86.2 (NSW.0029.0018.0005)

²⁸ Strnadová, I., Dowse, L., Danker, J., & Tso, M. (2020). *A review and synthesis of educational supports for students with disability: Evidence-based practices in Australia. Summary review.* UNSW Sydney

and specialised settings. Similarly, primary, secondary or both primary and secondary schooling stages were represented. However, some studies did not identify the educational setting. Other studies did not specify if the students were included in general education class all the time or spent part of their time in support units. The researchers concluded that comparability of the outcomes and findings among the research studies was limited. In addition, the researchers suggest: “Greater attention is also needed on evidence-based practices use with students with a wider range of disability types, including physical and sensory disabilities, communication or emotional and behavioural disorders, and twice exceptional students.”²⁹

82. Based on the international and Australian review of evidence, the Department therefore cannot draw firm conclusions about educational settings. However the Department will focus on strengthening the use of evidence based practices across all settings and will continue to work on building the evidence on what works for improving outcomes for students with disability.

Question 12 (Chair)

The question asked by the Chair, as set out at *Transcript, Public hearing 7, 7 May 2021, P-522 [36-39]*.

At what stage of the process is the Department’s review of the *NSW Suspension and Expulsion Procedure*?

83. The Department’s Student Discipline Policy³⁰ and Suspension and Expulsion Procedures provide support and guidance to schools in relation to suspension and expulsion.

84. The policy and procedures are being reviewed as part of the broader Student Behaviour Strategy, which was released on 8 March 2021. The review is expected to be completed in the second half of 2021.

²⁹ Strnadová, I., Dowse, L., Danker, J., & Tso, M. (2020). *A review and synthesis of educational supports for students with disability: Evidence-based practices in Australia. Summary review.* UNSW Sydney

³⁰ The Student Discipline in Government Schools Policy is published at <https://education.nsw.gov.au/policy-library/policies/pd-2006-0316>

Question 13 (Chair)

The question asked by the Chair, as set out at *Transcript, Public hearing 7, 7 May 2021, P-523 [5-35]*.

Could the States of NSW, Queensland and others adopt a cooperative approach and coordinated effort with each other and the Royal Commission, to examine and address the issues that have been identified by the Royal Commission?

85. The State of NSW adopts a cooperative and coordinated effort with the other States and the Commonwealth in relation to disability matters through the Disability Reform Ministers' meetings. These meetings provide a forum for the Commonwealth and state and territory ministers responsible for disability policy to drive national reform in disability policy and implementation, including through the National Disability Strategy and the National Disability Insurance Scheme (NDIS).

86. The Honourable Alister Henskens, Minister for Families, Communities and Disability Services, represents NSW at these meetings.

87. In the event that the Royal Commission is considering a different forum or approach in relation to education issues, the State of NSW looks forward to being provided with further guidance from the Royal Commission.

Additional Question

In paragraph [80] of his written statement, Mr Frank Potter stated that:

The Department introduced the low level adjustment for disability in 2015. The calculation of the loading is based on a school's enrolment and their student learning need index, which is determined from longitudinal NAPLAN data.

When responding to the questions included at Annexure A, it would be appreciated if your client could also provide an explanation for how the longitudinal NAPLAN data is used to calculate the student learning need index for a particular school.

88. Specialist teacher and flexible funding allocations, known as the Low-level adjustment for disability (**LLAD**), are determined for each mainstream NSW public school based on student enrolment and the Student Learning Needs Index (**SLNI**). The SLNI is a cumulative total of incidents of students performing in the low 10 percent bands in reading and numeracy over a three year period – in effect, 6 cohorts of students in any school.
89. The Department counts the number of incidents of students performing in the low 10 percent bands in reading and numeracy over a consecutive 3 year period to provide a total. Some students may be counted more than once in the calculation. This total becomes the SLNI for each school.
90. As an example, a primary school with an enrolment of 330 has incidents of students performing in the low 10 percent bands in reading and numeracy:
- a. 2017 – Year 3 – 17; Year 5 – 12;
 - b. 2018 – Year 3 – 14; Year 5 – 16;
 - c. 2019 – Year 3 – 13; Year 5 – 20.

The school would have an SLNI of 92.

91. For the specialist teacher position, with an enrolment of 330, the school would have a staffing base of 0.4 full-time equivalent (**FTE**) (2 days per week) and an additional allocation based on the SLNI. The enrolment and SLNI components come from an existing state-wide pool of teacher positions.
92. For the flexible funding allocation, a base is determined by the enrolment: 40 percent of the available state-wide funding and the additional determined by the SLNI from 60 percent of the available state-wide funding to ensure it best reflects the student need and supports schools to meet this need.
93. While Mr Potter's statement refers to the use of the longitudinal NAPLAN data, that on further investigation is not correct. The SLNI is not constructed from longitudinal NAPLAN data. Rather, the SLNI is constructed from pooled cross-sectional NAPLAN data as set out above.

94. A longitudinal design typically refers to cases where multiple observations are taken from the same set of units at different points in time. In this sense, longitudinal NAPLAN data refers to measurements taken from the same group of students as they move through scholastic years. The SLNI is not based on longitudinal NAPLAN data.
95. A cross-sectional design typically refers to cases where observations are taken from a single set of units at a single point in time. When multiple cross-sectional sets are combined, with each cross-section comprised of a different set of units observed at a different point in time, we call this a repeated cross-sectional design. The SLNI represents a moving count with a three-year rolling window and is based on a repeated cross-sectional design. In other words, the SLNI pools data from three cross-sections.
96. The Department is currently reviewing the methodology it uses to determine the LLAD allocation to mainstream public schools in NSW to ensure it best reflects the student need and supports schools to meet this need.

16 July 2021