

**Submission to the Education and Workforce Committee’s inquiry into school attendance: 30 September 2021**

Thank you for the opportunity to provide this submission on the inquiry into school attendance. We would welcome the opportunity to provide an oral submission.

1. **Key recommendations:**
2. Establish an enforceable right to inclusive education.
3. Ensure that all new and experienced teachers are trained in inclusive pedagogy, universal design for learning and able to respond to the learning needs of diverse learners.
4. Address key barriers to attendance and engagement, including by;
	1. overhauling the policy and resourcing framework so that all children and young people get what they need to be learning and developing,
	2. ensure that the overhaul of the policy and resourcing framework is based on robust prevalence data and actual costings of reasonable accommodations and specialist supports students require, and
	3. remove the policy disincentives for schools enrolling disabled students.
5. **Inclusive Education Action group: Who we are, our mission and vision**

IEAG was established as a registered charity in 2008 by a group of disabled people, parents, education professionals, academics, researchers and disability advocates committed to children’s rights. At the time, too many disabled children, young people and their parents and whanau were experiencing exclusion and discrimination in their local schools. As an organisation we advocate at both an individual level, providing support and information to families, educators and others and at a systemic level, advocating for social change within the education system.

Schools play a vital role in promoting social cohesion and the development of inclusive communities. We believe that an inclusive education system is the foundation for building an inclusive Aotearoa New Zealand. Our vision for “the education system” is one where all disabled students have equitable access to and outcomes from education, where diversity is valued and where all students are contributing citizens. In our work we aim to change attitudes, policies and practices so that every student is welcomed, has a sense of belonging and can access the support they need to participate and achieve to their full potential at their local school. Our work is underpinned by New Zealand and international research, New Zealand law and our obligations under International Human Rights Conventions.

1. **Introduction**

The vision for New Zealand’s Child and Youth Wellbeing Strategy is “New Zealand is the best place for children and Young people.” Families and whanau of disabled children and young people want New Zealand to be the best place in the world for their children and young people. They want their children to be learning and developing, accepted, respected and connected, to be involved and empowered and to have what they need to thrive. [[1]](#footnote-1) Education is key to realising this vision for all children and young people in New Zealand.

School attendance is a critical driver of positive education and life outcomes and this is particularly so for disabled students. All students learn best when they are able to attend school regularly alongside their siblings and peers and can benefit from the expertise of knowledgeable and well supported teachers and other professionals.

We know that regular school attendance is a major issue of concern for disabled young people, their families and whanau and their schools and teachers. There is clear evidence that despite the legislative right to full-time attendance and the Government’s commitment to a world class inclusive education the education system is failing to deliver for disabled students. Recent data from the Household Labour Force Survey for the June 2020 quarter shows that 48.2% of disabled youth aged 15 to 24 years were not in employment, education or training compared with 10.6 percent of non-disabled youth.[[2]](#footnote-2) A number of major reviews have concluded that we do not currently have an education system that is able to support *all* young New Zealanders to thrive. Groups identified in these reviews that are not well served include; children from disadvantaged homes, Maori and Pacific students, disabled students and those with learning support needs.

The rates of stand-downs, suspensions, exclusions, and expulsions, at a school level and at a system level, help provide indications of where engagement in productive learning may be absent and unmet learning support needs may be present. Disabled students are over-represented in these rates. According to the Ministry of Education disabled students are between 1.5 and 3 times more likely than their non-disabled peers to be stood-down, suspended and frequently move schools.[[3]](#footnote-3). Exclusion from education disrupts students' learning and impedes their capacity to be full and active participants in their community now and later in life.

New Zealand has binding obligations under Article 24 of the United Nations Convention on the Rights of Persons with Disabilities[[4]](#footnote-4) (UNCRPD) to provide an inclusive education system at all levels and lifelong learning for disabled students. An inclusive education system that meets this requirement must demonstrate:

a. equality of access to an inclusive, quality education

b. reasonable accommodation of the requirements of disabled students

c. the delivery of support within the general education system

d. support measures that are effective, individualised, provided in an environment that maximises academic and social development, and consistent with the goal of full inclusion.

Inclusive education is not just about systems, supports and services; it is also about teachers and school leaders. Teachers and school leaders with positive attitudes towards inclusion are more likely to adapt the way they work for the benefit of all students and are more likely to influence their colleagues in positive ways to support inclusion.

Although our submission focuses on barriers to attendance and engagement experienced by disabled students in enacting their right to an inclusive education our recommendations apply equally to other groups of students who are also at risk of marginalisation, exclusion and underachievement. As a country we have a legal and moral responsibility to ensure that groups who are most at risk are carefully monitored and steps taken to ensure their attendance, engagement and learning within the education system.[[5]](#footnote-5)

1. **An enforceable right to Inclusive education:**

In 2019 IEAG supported the strengthening of the right to education by making the equal right to attend, explicit for disabled students, within the Education and Training Act 2020. We were aware from engagement with families and whanau, our own research and from others in the education and disability sectors, that disabled students were being pressured or forced to attend part time. Many other disabled students were often refused enrolment or dissuaded from enrolling by their local schools.

The submission of the admin team for VIPS Equity in Education, which we have had the opportunity to read and support in its entirety, refers to the many ways in which their families continue to face barriers to attendance impacting on engagement and learning at school. These include; direct or subtle refusal to enrol a disabled child, part-time attendance only, conditional enrolment, exclusion from all EOTC and other school activities, segregation into special classes and units, refusal to provide specialist supports, adaptation and accommodations, punitive disciplinary measures and stand downs, suspensions and exclusions, refusal to attend school by the child due to lack of genuine inclusion, voluntary reduction of attendance at school by families and voluntary withdrawal from school, transience while looking for an inclusive school, and home-schooling.

As we submitted previously, in order to militate against this, the legislative right to attendance must be legally enforceable. What is needed to enact this right is a mechanism enabling the Secretary of Education to direct schools to allow a disabled student to attend full-time. This direction also needs to ensure that the school environment for student is accessible, welcoming and safe; as we would expect for any other student.

***Recommendation:***

1. Establish an enforceable right to inclusive education to enact the equal rights of disabled students to enrol attend and receive education at State schools as other students.
2. **Addressing the systemic barriers to attendance, engagement and learning of disabled students within the education system:**

Ensuring the rights of all children and young people to attendance, engagement and learning relies on an education system that is inclusive and so works for *all*. However, a number of major reviews, including the 2016 Blueprint for Education System Stewardship by the State Services Commission[[6]](#footnote-6) and the 2018 Our Schooling Our Futures: Stronger Together report by the Tomorrow’s Schools Independent Taskforce[[7]](#footnote-7), have concluded that we do not currently have an education system that is able to support *all* of New Zealand’s children and young people to thrive. Groups identified that are not well served included children from disadvantaged homes, Maori and Pacific students, disabled students and those with learning support needs.

 As these reviews have identified, our current education system contains a number of deficiencies that create barriers to disabled students enjoying their equal right to an inclusive, good quality education and provides policy disincentives for schools. These systemic barriers include;

* our dual education system which perpetuates inequitable distribution of resources across school settings which distorts true choice,
* problems with initial and ongoing education for teachers,
* a policy and resourcing framework not based on prevalence data, or actual costs and which does not respond to individualised needs required for attendance, engagement and learning,
* poor monitoring of achievement and little visibility of disabled students within system wide indicators, and
* no independent review of decisions made about disabled students by the Ministry.
	1. **Ensure all new and experienced teachers are able to respond to the needs of diverse learners**

One of the key barriers impeding disabled students access to and engagement in education is insufficient training and education of teaching staff resulting in a lack of technical knowledge and capacity to understand and implement the right to inclusive education.[[8]](#footnote-8) How we train and support out teachers in terms of both their initial and ongoing education is a key determinate of student attendance, engagement and non-attendance.

Teacher education for inclusion in New Zealand supports new and experienced teachers to recognise and resist deficit theorising and normative ideas about children and young people that we know lead to students’ exclusion in education. They are encouraged instead to take a “rights not needs” approach that views students as rights holders, capable learners with cultures, strengths and interests that are assets to be valued and built upon. Teachers understand difficulties in children’s learning not as problems within the child that require fixing, but rather as opportunities for their own professional learning in collaboration with children, whanau and other professionals. This kind of thinking helps teachers to appreciate that barriers to students’ learning are located within the curriculum and other environmental factors at school that are within their own and other teachers’ power to change.

To support teachers in their work, systems designed to support student learning need to be respectful of and responsive to these ideas. The ORS system works against this understanding of students as capable learners, it encourages schools to describe children in terms of their deficits, a position that both parents and teachers describe as dehumanising and stressful. The ORS funding system is now inconsistent with the Ministry’s own policies (e.g. the Learning Support Action Plan, and He Pikorua) which are more clearly based on student capability and inclusion.

It is well known that students enrolled in their local school have poor access to therapies compared with their counterparts in segregated special schools. This is an inequitable and unfair anomaly in a system that purports to be inclusive. When parents feel the need to move their child to a segregated setting in order to receive the supports they should receive in their local school, children’s rights to an inclusive education under Article 24 of the UNCRPD are clearly breached. We suggest that it is time to stop the government’s ongoing commitment to the segregation and exclusion of disabled students (evident in the building of new special schools and units), and to redirect funds to local schools that are trying to provide an inclusive education (consistent with the Ministry’s own policies). This means ensuring that therapists and other professional supports are on the ground where they are needed, in local schools.

**Recommendation:**

1. Ensure that all new and experienced teachers are trained in inclusive pedagogy and universal design for learning and confident to meet the learning needs of diverse learners.
	1. **Overhaul the resourcing and policy framework to enact the right of attendance so that all children and young people get what they need to engage and learn**

A key determinate of non-attendance, lack of engagement and underachievement over the last twenty years has been a policy and resourcing framework which is not based on robust prevalence data or actual costings and has not therefore been able to respond to the individual support requirements of disabled students and their teachers. This provides disincentives to mainstream schools enrolling disabled students. Our dual education system perpetuates the inequitable distribution of resources across school settings which distort true choice.

Barriers that impede access to inclusive education for disabled students include*; “lack of disaggregated data and research (both necessary for accountability and programme development) which impedes the development of effective policies and interventions to promote inclusive and quality education,”* and *“Inappropriate and inadequate funding mechanisms to provide incentives and reasonable accommodations for the inclusion of disabled students, inter-ministerial coordination and, support and sustainability.”* [[9]](#footnote-9)

The current policy and resourcing framework (of which the Ongoing Resourcing Scheme is a key component) was developed and implemented over two decades ago. Known originally as Special Education 2000 (SE2000)) the policy aimed to achieve, over the following decade, a world class inclusive education system that would provide learning opportunities of equal quality to all students.[[10]](#footnote-10) However the policy was not based on prevalence or appropriately disaggregated data. There was insufficient research undertaken to determine the level, duration and cost of supports that students would require to access the curriculum.

* + 1. **Lack of prevalence and disaggregated data**

When SE2000 was first announced in 1996 the Ministry of Education estimated that 2% of the school population (approximately 1,400 students) would have the highest level of need and 4 to 6 % moderate level needs[[11]](#footnote-11). A verification process was trialled in 1997 resulting in the percentage of students to be eligible for ORS being set at up to 1% of the estimated 1998 total student population. Notably, 40% (7,311) of the 17,448 students who were receiving special education assistance at the time were not included in the trial. According to a 1997 Cabinet Paper ORS “…*was to manage the fiscal risk by capping the percentage of eligible students to 1% of the student population, and establishing an effective gatekeeping mechanism to ensure a high degree of national consistency”.* [[12]](#footnote-12) A further 2% of students with high special education needs (assumed to have a short rather than an ongoing need for support) were to be funded through the other two initiatives (Severe Behaviour Initiative and Speech Language Imitative).

We are aware that issues were identified soon after implementation of SE2000. In 2000 Dr Cathy Wylie reviewed SE2000 and reported that; “*There is no doubt in the sector that a sizeable number or children with special needs are missing out on the support they need to participate…There are undoubtedly students who have continuing needs throughout their education who do not fit the OTRS (now ORS) categories.”[[13]](#footnote-13)*

An independent expert advisory group who reviewed the ORS Criteria and Benchmarks in 2001 on behalf of the Ministry of Education concluded that the “*ORRS criteria are set at a level that consistently identifies 1% of students with highest level needs. However, we conclude that the criteria are set too high…In essence more than 1% of the school population have high or very high ongoing needs.”[[14]](#footnote-14)* The ORS criteria and benchmarks have not been reviewed since 2001.

Following the 2001 review of ORS a Ministry report to Cabinet in 2003 acknowledged that;

 *“ a fundamental redesign of special education resourcing policy was needed but that such a substantial policy change coming so soon after implementation would be confusing for schools and parents… “[[15]](#footnote-15)*

The report noted that ORS is determined by criteria that have consistently identified about 1% of the school population. “*Driving the demand for ORRS is the inadequacy of support provided, to students not eligible for ORS. The other initiatives are resourced on the assumption that the relevant students do not have ongoing needs which has not proven to be the case.” The report acknowledged that* in reality students do not fit neatly into the categories covered by the various initiatives.

Shortcomings identified by the Ministry included; the need for a continuum of resourcing (rather than steps) to better match support to student’s needs, reducing fragmentation by encouraging a co-ordinated and co-operative approach, and the need to implement this in a way that supports and builds the capability of schools and teachers, including enabling classroom teachers to provide more individualised support.[[16]](#footnote-16) These issues remain unresolved. Despite increasing numbers of the student population being identified with highly complex needs there has been no reviews of the ORS criteria or adjustments to the policy settings. In 2021 the same issues identified in 2003 requiring a fundamental redesign of the resourcing policy have yet to be addressed. We are hopeful that the review of interventions for students with the highest level of learning support needs currently underway will look at the entire policy and resourcing framework and respond to these longstanding issues.

* + 1. **Insufficient research and costings of the supports required by students**

One of the issues ORS was intended to address was the concern that resources were inequitably distributed across school settings (i.e. between “special” and “regular”) and this distorted the choice of provision.[[17]](#footnote-17) ORS was intended to provide an equitable system of resourcing across different school settings and to ensure that students received similar levels of resourcing in different parts of the country. However, as Treasury noted in 1997;

*“An important unanswered question on the ORS relates to determining the appropriate level of funding (including teaching resources) required to assist children with ongoing high and very high needs. This includes whether assistance in special schools and attached units is being delivered efficiently and whether delivering a similar level of assistance in a regular school would be more or less expensive. This will be the focus of the data gathering and analysis exercise over the next twelve months. ”[[18]](#footnote-18)*

As Wylie’s 2000 review identified; “*Equitable resourcing for those verified in terms of dollars, does not translate into equitable amounts of actual support. Different settings and locations do have different costs. Inclusion in ordinary schools can often cost more than provision where a number of students with special education needs are in a single setting allowing economies of scale…” [[19]](#footnote-19)* She noted that”*The support each student gets is not a fixed sum, as some parents believe, but is related to the nature of students needs within the funder’s pool and their costs…the ORS fund holder model of allocating support based on the nature of students within the fund holders pool and their costs works best for special schools. The model does not work well for the 57% of ORS students in regular classrooms supported by the special education service which served a much larger number of schools over a wider area and cannot benefit from the same economies of scale and appear to have higher costs.”[[20]](#footnote-20)*

The inequitable distribution of resources across school settings remains a key barrier for disabled student’s attendance, engagement and learning and provides major policy disincentives to schools to enrol disabled students.

* + 1. **Removing policy disincentives**

The New Zealand Institute of Economic Research reviewed the Special Education Resourcing Framework[[21]](#footnote-21) in 2009 and noted that “*Resourcing frameworks can support or work against policy objectives.”* Different funding models were found to have different incentives, for example funding based on needs promotes identification of need and possible over-identification of need. Funding based on outputs to promote results can lead to strategic behaviour to embellish results and thus funding. In other words, funding approaches can help or hinder policy objectives. The report found that depending on the incentives of various models, providers (schools) might actively or passively discourage students with special education needs that would cost the school more than it was resourced for, even if a per capital payment is calculated on the understanding that there will be unders and overs, or over provide and “gold-plate”, or under provide and cut corners or manipulate classifications.

The review identified known risks associated with various funding systems, risks they noted that need to be carefully managed from a schools and systems perspective. There is ample evidence to suggest that these risks are not well-managed within the New Zealand education system. For example, students with high support needs are discouraged from enrolment, and/or under-provided for by being sent home early. The report notes that key aspects of the SE2000 policy framework appear to work against important policy objectives including; *improved opportunities and outcomes for students with special education needs, the right to attend local schools and horizontal equity in resourcing.”*

The current resourcing policy continues to work against the Government’s objectives for our education system. The Government’s stated aim of SE2000 was “*to achieve, over the next decade, a world class inclusive education system that provided learning opportunities of equal quality to all students.*”[[22]](#footnote-22) World class inclusive public education remains a key government priority set out in object 5 of the Statement of National Education and Learning Priorities (NELP).[[23]](#footnote-23) The NELP’s direct government and education sector activities towards the actions that will make the biggest difference, and ensuring that the education system is strengthened to deliver successful outcomes for all learners/ākonga.

**Recommendations:**

1. Address key barriers to attendance and engagement, including by;
	1. Overhauling the policy and resourcing framework so that all children and young people get what they need to be learning and developing
	2. Ensure that the overhaul of the policy and resourcing framework is based on robust prevalence data and actual costings of learning support requirements.
	3. Remove the policy disincentives for schools enrolling disabled students.
2. **Conclusion**

School attendance is a critical driver of positive education and life outcomes and this is particularly so for disabled students. All students learn best when they are able to attend school regularly alongside their siblings and peers and can benefit from the expertise of knowledgeable, well supported and confident teachers and other professionals. Addressing the inequities in attendance, engagement and non-engagement for disabled students requires longstanding systemic barriers to be addressed. Including ensuring that all new and experienced teachers are trained in inclusive pedagogy, universal design for learning and able to respond to the learning needs of diverse learners. The inequitable distribution of resources across school settings remains a key barrier. The same problems identified twenty years ago in Wylie’s Picking up the Pieces Review of SE2000 continue to create barriers to “world class inclusive public education” for disabled students, their families/whanau, and their schools and teachers.

1. Children and Youth Well-being Strategy Retrieved from https://childyouthwellbeing.govt.nz/resources/child-and-youth-wellbeing-strategy [↑](#footnote-ref-1)
2. Labour market statistics (disability): June 2020 quarter Retrieved from https://www.stats.govt.nz/information-releases/labour-market-statistics-disability-june-2020-quarter [↑](#footnote-ref-2)
3. He Whakaaro: The educational experiences of disabled learners Retrieved from https://www.educationcounts.govt.nz/publications/schooling/he-whakaaro-the-educational-experiences-of-disabled-learners [↑](#footnote-ref-3)
4. United Nations Convention on the Rights of Persons with Disabilities Retrieved from <https://www.ohchr.org/Documents/Publications/AdvocacyTool_en.pdf> (CRPD) [↑](#footnote-ref-4)
5. Towards inclusion in education: Status, trends and challenges The UNESCO Salamanca Statement 25 years on Retrieved from <https://reliefweb.int/report/world/towards-inclusion-education-status-trends-and-challenges-unesco-salamanca-statement-25> [↑](#footnote-ref-5)
6. State Services Commission, A Blueprint for Education System Stewardship-September 2016 page 4 [↑](#footnote-ref-6)
7. Tomorrow’s Schools Independent Taskforce. (2018).Our schooling futures: Stronger together.

 Wellington, NZ: Ministry of Education) [↑](#footnote-ref-7)
8. Committee on the Rights of Persons with Disabilities, General Comment No 4, Article 24: Right to inclusive education, (CRPD/C/GC/4, 2 September 2016) [↑](#footnote-ref-8)
9. (CRPD/C/GC/4, 2 September 2016) [↑](#footnote-ref-9)
10. CAB (97) M41/20 released under OIA [↑](#footnote-ref-10)
11. Special Education Booklet, (1996) Ministry of Education [↑](#footnote-ref-11)
12. CAB (97) M41/20 released under OIA [↑](#footnote-ref-12)
13. Wylie (2000) “Picking Up the Pieces Review of SE2000” [↑](#footnote-ref-13)
14. Morton et al (2001) Review of Ongoing and Reviewable Resourcing Schemes: The criteria their Application and the Verification Process [↑](#footnote-ref-14)
15. CAB Min (03) 17/5, SDC (03) 57 released under OIA [↑](#footnote-ref-15)
16. (CRPD/C/GC/4, 2 September 2016) [↑](#footnote-ref-16)
17. Report distributed to the Minister’s Advisory Panel on the Review of Special Education in 2010. [↑](#footnote-ref-17)
18. CAB (97) M41/20 released under OIA [↑](#footnote-ref-18)
19. Wylie “Picking up the Pieces Review of SE2000” page 32 [↑](#footnote-ref-19)
20. Ibid page7 [↑](#footnote-ref-20)
21. NZEIR (2009) Special Education Resourcing Framework, Draft for Ministry of Education [↑](#footnote-ref-21)
22. CAB (97) M41/20 released under OIA [↑](#footnote-ref-22)
23. The Statement of National Education and Learning Priorities (NELP) & Tertiary Education Strategy (TES) <https://www.education.govt.nz/assets/Documents/NELP-TES-documents/FULL-NELP-2020.pdf> [↑](#footnote-ref-23)