

Getting it Right for Disabled Students at School

IHC believes

All students with a disability have a human right to attend their local school, feel welcome and included, have access to the curriculum, and have fair outcomes from a quality education.

We know that when disabled students learn alongside students their age at their local school they are set up for a life of citizenship, community participation and inclusion. The research tells us that non-disabled children also benefit from inclusion; their learning increases along with their values of diversity and inclusion.

Unfortunately, students with disabilities have been treated unfairly within the New Zealand education system for far too long. They have been discriminated against by not having access to what they need to thrive at school.

Examples of discrimination include, disabled students being denied enrolment or not being able to attend all day, being encouraged to go to a school that is 'more appropriate' for disabled students, not participating in school activities, or being placed with a teacher who lacks the confidence or support to teach students with different learning needs. Many students cannot access the supports they need for equitable access to education.

What we have done

In 2008, after decades of work with the Ministry of Education to solve the problems, IHC lodged a complaint under Part 1 A of the Human Rights Act, 1993. This legal mechanism considers whether government policy and processes are free from unlawful discrimination. IHC thought what was happening for disabled students at school needed to be looked at by human rights law experts.

IHC's legal action is now 13 years old! Our case had to go through the Human Rights Commission and then government lawyers wanted to "strike-out" key aspects of the IHC case. We had a hearing in the Human Rights Review Tribunal in 2015.

What is happening now?

After five years of waiting the Human Rights Review Tribunal handed down their decision at the end of 2020. The Tribunal dismissed all of the Crown's "strike-out" arguments.

This was great news! The discrimination experienced by disabled students with disabilities in education can now be heard by human rights experts.

Early in 2021, we had more good news – The Director of the Office of Human Rights Proceedings, Michael Timmins, agreed to provide legal representation to IHC. He thinks the way in which disabled students experience discrimination in their access to education is a serious matter of great public interest. Michael Timmins wants to talk with government about what they could do to better protect disabled students from discrimination at school.

How can you be involved?

Before writing up new court documents to take our case forward, the Director of Human Rights Proceedings, Michael Timmins, wants to hear from families and students.

- *What difficulties have you and your child faced at school?*
- *How did you go about trying to solve those problems?*
- *What changes do you think need to happen for your child and other disabled students to get a fair deal?*

Michael also wants to hear from people from the education, disability, and community sectors about what they think about these problems and how they could be solved.

When can you get involved?

IHC will be arranging meetings around New Zealand this year. Please let us know if you would like to host a meeting, attend a meeting or would like to support the complaint by contacting the Advocacy team on Phone: 04 472 2247, 0800 442 442 or email advocacy@ihc.org.nz

There is also more detail on our Human Rights Complaint on our website:

<https://ihc.org.nz/ihcs-education-complaint>

Need support?

If you want support to resolve an issue affecting your child at school now, we can provide you with information and advocacy.

To find out more, go to the website below:

<https://ihc.org.nz/new-to-id>