

Education (General Provisions) Amendment Bill 2025

To Education, Arts and Communities Committee

4 April 2025

About Queensland Advocacy for Inclusion

Queensland Advocacy for Inclusion (QAI) is a Disabled Peoples Organisation. We are an independent, community-based advocacy organisation and community legal service that provides individual and systems advocacy for people with disability. Our purpose is to advocate for the protection and advancement of the needs, rights, and lives of people with disability in Queensland. QAI's Management Committee is comprised of a majority of persons with disability, whose wisdom and lived experience guides our work and values.

QAI has been engaged in systems advocacy for over thirty-five years, advocating for change through campaigns directed at attitudinal, law and policy reform.

QAI also provides individual advocacy services in the areas of human rights, disability discrimination, guardianship and administration, involuntary mental health treatment, criminal justice, NDIS access and appeals, and non-legal advocacy for young people with disability including in relation to education. Our individual advocacy experience informs our understanding and prioritisation of systemic advocacy issues.

Since 1 January 2022, QAI has also been funded by the Queensland Government to establish and co-ordinate the Queensland Independent Disability Advocacy Network (QIDAN). QIDAN members work collaboratively to raise the profile of disability advocacy while also working towards attitudinal, policy and legislative change for people with disability in Queensland.

QAI's recommendations

1. QAI supports the amendment enabling principals to delegate the function of telling students about suspension decisions to another appropriately qualified teacher at the school. However, this measure must be accompanied by other amendments that seek to improve the quality of suspension decisions and enhance the accountability of suspension decisions, given the significantly detrimental impacts they have on students, families and the broader community.

2. To improve the quality and accountability of suspension decisions, QAI recommends the following amendments are added to the Bill:

- Amend the EGPA to include a provision that requires the Department of Education to avoid the use of exclusionary discipline unless it is necessary as a *last resort* to avert the risk of serious harm to the student, other students or staff
- Legislate an appeal right for all short-term suspensions
- Limit the number of suspensions a student can receive within a prescribed period of time before a principal must obtain approval from the chief executive to issue another suspension
- Include a provision that ensures students with disability have access to educational materials appropriate to their educational and behavioural needs while subject to exclusionary discipline
- Include a provision that reduces the timeframe in which the Department of Education has to respond to submissions against suspensions and related matters to 20 school days after the Department of Education receives the submission
- Include a legislative provision that requires a principal to obtain input from a student prior to making a school disciplinary absence decision
- Establish an independent complaints process and clarify the decisions for which an external right to review at the Queensland Civil and Administrative Tribunal (QCAT) applies
- Refer all students with disability who receive a suspension or exclusion to an individual advocate
- Collect and publish disaggregated data on the use of school disciplinary absences in an annual report to the Minister, including data on the use of informal exclusions

- Review the criteria for issuing exclusionary discipline and reduce the number of permissible reasons, including banning the use of suspensions for minor incidents
- Prescribe in legislation a list of matters to be considered by a principal when making a decision to suspend or exclude and require the principal to provide a response to these matters in an accessible format for the student and family

3. QAI also recommends the Department of Education resume the work initiated by the previous Minister for Education regarding the introduction of Student Support Plans for students in particular cohorts who are at risk of receiving disproportionate school disciplinary absences, including students with disability, First Nations students, students in out of home care and students belonging to two or more of these groups.

Introduction

1. Education is fundamental to socialising children and preparing them for adult life, teaching essential skills and facilitating pathways to employment and the realisation of a meaningful life. Research that shows education is ‘one of the most powerful tools by which economically and socially marginalised children and adults can lift themselves out of poverty and participate fully in society’.¹
2. However, students who receive school disciplinary absences (SDAs) are denied these opportunities, particularly students who receive multiple and repeat SDAs. “School disciplinary absences” includes suspensions, exclusions and the cancellation of enrolment following instances of behaviour that a school deems to be unacceptable.
3. Since 2022, QAI, together with the Aboriginal and Torres Strait Islander Legal Service (ATSILS), Youth Advocacy Centre (YAC), PeakCare Qld and Youth Affairs Network Qld (YANQ), have been leading the *A Right to Learn* campaign which seeks to address the disproportionate use of school suspensions and exclusions on students with disability. This is based upon research by QAI and the Centre for Inclusive Education (C4IE) which found evidence of disproportionate and excessive suspensions for First Nations students, students with disability and students in out of home care. For example, students with a disability made up only 18.9% of enrolments in 2020 yet received 49.2% of all short suspensions (1-10 days). This equates to 2.18 suspensions on average per student.²

Our research also showed:

- When students are in more than one of these groups, the risk of suspension is even greater.
- Students receiving social-emotional adjustments at school, such as neurodiverse students, are issued repeat suspensions at a higher rate than students with other types of disability; and
- Disability is the most common factor among suspended students, raising urgent questions as to whether students with disability are receiving the adjustments and support to which they are entitled under legislation.

¹ United Nations Educational, Scientific and Cultural Organisation; ‘Right to education’; <https://en.unesco.org/themes/right-to-education>

² Graham, L.J., Callula Killingly, Alexander, M. and Wiggans, S. (2023). Suspensions in QLD state schools, 2016–2020: overrepresentation, intersectionality and disproportionate risk. Australian Educational Researcher. doi:<https://doi.org/10.1007/s13384-023-00652-6>.

4. Whilst some schools provide exemplary support to students with disability, others appear to reject or misunderstand the values of inclusion and operate practices that are discriminatory towards students with disability. For example, unreasonably denying requests for reasonable adjustments that would ensure students with disability can access education on the same basis as others. The absence of reasonable adjustments for many students with disability, particularly students with autism and/or attention deficit hyperactivity disorder (ADHD), can lead to escalations in behaviour that would otherwise be avoided if reasonable adjustments appropriate to their needs were in place. Failing to ensure teachers are adequately skilled and equipped to support a classroom full of diverse learners means both students and teachers are being set up to fail and can lead to further escalations in the child's behaviour, resulting in disciplinary absences and/or the use of restrictive practices, further entrenching the child's segregation within the school community.³
5. QAI has written multiple reports and submissions that document the serious short and long-term consequences of SDAs for students, families and the broader community. These include lower educational attainment, poor mental health, increased risk of homelessness⁴ and increased risk of engaging in the criminal justice system⁵.

In addition to the personal costs of overusing SDAs, many of the consequences bring economic costs to students, families, teachers and governments alike. This is particularly concerning in the current housing and cost of living crisis where economic impacts are compounded and social inequality is increasing in our community. Recent research commissioned by QAI examined some of the economic impacts of disproportionately suspending students with disability in Queensland state schools. Our key findings were:

- In one year, about 3,000 Queensland students with disability will miss out on completing year 12 because of suspensions. These students then go on to experience an income gap, costing **\$41 million in lost income** each year.
- Parents and carers of students with disability suspended from school miss up to 76,000 days of work each year, costing **\$14 million of lost income** to these families.
- Suspensions are expensive: 440 664 teacher hours are spent managing student behaviour at a cost of **\$20.1 million per year**.

³ See Graham et al. (2020). Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian government schools: Final Report. The Centre for Inclusive Education, QUT: Brisbane, QLD, p362 – Finding 5.1

⁴ Graham, L. (2020) Questioning the impacts of legislative change on the use of exclusionary discipline in the context of broader system reforms; a Queensland case study; International Journal of Inclusive Education, 24:14, 1473-1493

⁵ Hemphill S, Broderick D & Heerde J 2017. Positive associations between school suspension and student problem behaviour: Recent Australian findings. Trends & issues in crime and criminal justice no. 531. Canberra: Australian Institute of Criminology. <https://www.aic.gov.au/publications/tandi/tandi531>

- Up to 300 students with disability will be incarcerated after school suspensions before they turn 18. Disabled students who have been suspended cost taxpayers between \$5.5 – \$10 million in **youth justice costs** each year.⁶
6. All of this is occurring despite overwhelming evidence as to the ineffectiveness of SDAs in reducing behaviours of concern. Graham highlights the fundamentally flawed assumption upon which SDAs are based – that is, that challenging behaviour is a conscious choice enacted by individuals who can self-regulate their emotions.⁷ Therefore by punishing students who exhibit challenging behaviours, it is presumed that SDAs will act as a deterrent and change the student’s decision-making prior to ‘choosing’ their behaviour in future. While this may be true for *some* students, notably students *without* disability who are statistically less likely to receive multiple suspensions⁸, it is too simplistic an explanation for all ‘challenging behaviour’ which is often a reflex communication strategy for students with communication difficulties in situations of heightened distress or those experiencing overwhelm. It can also be a manifestation of a person’s disability.
 7. SDAs may be appropriate as a last resort in very limited circumstances but the evidence suggests they are being used more frequently than is required.⁹ While departmental policy reportedly states that the use of SDAs is a last resort measure, this does not reflect current practice nor provide sufficient accountability given the extraordinary discretion exercised by principals when issuing SDAs and the minimal level of guidance and oversight of SDA decision-making provided for within the *Education (General Provisions) Act 2006* (EGPA).
 8. Currently, principals have unfettered discretion to issue SDAs, including unfettered discretion to issue multiple and repeat SDAs to the same student. There might be internal policy guidance as to the matters a principal should consider when making a decision to issue an SDA, but this is not transparent for students and their families and is not able to be used to hold principals to account. Further, suspensions of up to 10 school days cannot be appealed at all. These suspensions can only be the subject of a complaint which is dealt with internally, not by an independent authority. The lack of legislative guidance for SDA decision-making also means students have no legal basis to assert their procedural rights, such as the right to be consulted before a decision to issue an SDA is made by a principal. Moreover, while

⁶ <https://qai.org.au/economic-costs-of-suspending-students-with-disability-from-school/>

⁷ Graham, L. (2020) Questioning the impacts of legislative change on the use of exclusionary discipline in the context of broader system reforms; a Queensland case study; *International Journal of Inclusive Education*, 24:14, 1473-1493

⁸ See Graham, L.J., Callula Killingly, Alexander, M. and Wiggans, S. (2023). Suspensions in QLD state schools, 2016–2020: overrepresentation, intersectionality and disproportionate risk. *Australian Educational Researcher*. doi:<https://doi.org/10.1007/s13384-023-00652-6>.

⁹ Graham, L. (2020) Questioning the impacts of legislative change on the use of exclusionary discipline in the context of broader system reforms; a Queensland case study; *International Journal of Inclusive Education*, 24:14, 1473-1493

Departmental policy may state that SDAs should only ever be a last resort measure, the EGPA permits the use of SDAs at a much lower threshold – that of “best interests”.

Proposed amendments

9. QAI supports the proposed amendment to the EGPA that would enable principals to delegate the function of telling students about suspension decisions to another appropriately qualified teacher at the school. However, there is a risk that the delegated authority will simply become a messenger, unable to provide all the relevant information about the reasons for the decision to the student. The student and family may still want to speak with the principal (as the decision-maker) and thus it could cause further distress and delays in the process while failing to alleviate the principal’s workload, as is presumed to be the intention behind this provision.
10. This proposed amendment is one of many amendments to the EGPA regarding school disciplinary absences that were contained in the *Education (General Provisions) and Other Legislation Amendment Bill 2024*. Proposed reforms included changing timeframes regarding SDA decision-making, introducing an appeal right for short-term suspensions (suspensions of up to 10 school days) in certain circumstances and prescribing the matters to be considered by a principal when making an SDA decision in a regulation. However, these modest reforms were ultimately withdrawn from the Bill.
11. Despite the numerous individual and social costs associated with overusing SDAs, we are yet to see the necessary legislative and policy reform that would ensure SDAs are truly only ever used as a last resort measure. This Bill is an opportunity to improve the quality of suspension decisions and enhance the accountability of suspension decisions, given the significantly detrimental impacts they have on students, families and the broader community. QAI therefore recommends the Committee include the following additional amendments:

Proposed additional amendments

12. **Make the use of school disciplinary absences a last resort**

Amend the EGPA to include a provision that requires the Department of Education to avoid the use of exclusionary discipline unless it is necessary as a *last resort* to avert the risk of serious harm to the student, other students or staff. This was recommended by the Disability Royal Commission (Recommendation 7.2) which says:

“all States and territory educational authorities... review all instruments regulating exclusionary discipline to ensure they... avoid the use of exclusionary discipline with students with disability unless exclusion is necessary as a last resort to avert the risk of serious harm to the student, other students or staff.”¹⁰

Currently, the EGPA permits the use of SDAs at a much lower threshold – that of “best interests”. This directly contributes to the continued disproportionate use of SDAs on students with disability.

13. Introduce appeal rights for short term suspensions

Legislate an appeal right for all short-term suspensions. All decisions to issue a suspension, whether the suspension is for 1, 5 or 20 school days, should be appealable. This is because SDAs remain on a student’s record and can negatively impact their enrolment applications at other schools, not to mention the significant negative consequences they bring for students, families and the wider community.¹¹ An inappropriate short-term suspension, regardless of the total number of days for which a student has previously been suspended, should therefore have an avenue for merits review.

14. Enhance accountability over repeat and multiple suspensions

Limit the number of suspensions a student can receive within a prescribed period of time before a principal must obtain approval from the chief executive to issue another suspension. Australian best practice standards require principals to seek approval from the Department before issuing multiple suspensions to the same student¹², yet this is not currently required in Queensland. This has also been recently recommended by the Disability Royal Commission (see recommendation 7.2).

This change, among others, would provide more oversight of the decision-making practices of individual principals. They would lead to better reporting and would help to identify differences between schools regarding SDAs, thus enabling early identification of inequitable and inappropriate use of SDAs for certain groups of students, such as students with disability, who typically receive repeated suspensions to no effect.

15. Ensure students have access to educational materials

¹⁰ Royal Commission into Violence, Abuse, Neglect and Exploitation (2023) Inclusive education, employment and housing – summary and recommendations. Final Report Volume 7, page 13

¹¹ See [QAI and ATSIL’s report for the Queensland Human Rights Commissioner](#), for more detail.

¹² Government of South Australia Department of Education, “Suspension and Exclusion Information for Parents and Carers”; Victoria State Government Training and Education, “Procedures for Suspension”; Department of Education WA, “Requirements Related to the Student Behaviour in Public Schools Policy.”

Amend the EGPA to include a provision that ensures students with disability have access to educational materials appropriate to their educational and behavioural needs while subject to exclusionary discipline. This was recommended by the Disability Royal Commission (see recommendation 7.2).¹³

Currently, section 284 of the EGPA only requires principals to take ‘reasonable steps’ to arrange for a student’s access to an educational program during a suspension. This legislative obligation must be stronger.

16. Increase procedural fairness

Amend the EGPA to include a provision that reduces the timeframe in which the Department of Education has to respond to submissions against suspensions and related matters to 20 school days after the Department of Education receives the submission. This would bring this timeframe into alignment with that afforded to similar SDA decisions.

Further, include a provision that requires a principal to obtain input from a student prior to an SDA decision being made. Currently, this is required by Departmental policy but QAI is aware of instances where this hasn’t happened in practice and there remains no accountability mechanisms or legal standing to assert this right in situations where it isn’t been upheld.

The inquiry into SDAs in South Australia specifically recommended that legislation: *“Explicitly require that a principal of a school must consult students using accessible language – in a non-prejudicial and non-interrogatory manner – to enable students to put forward their account in relation to an incident for which a disciplinary response may be considered.”*¹⁴

QAI recommends that Queensland’s legislation adopts a similar provision.

17. Introduce an independent complaints and appeals process

Establish an independent complaints process and clarify the decisions for which an external right to review at the Queensland Civil and Administrative Tribunal (QCAT) applies.

QAI is aware of significant inconsistencies and inadequacies in the Department of Education’s current complaints and appeal processes. Complaints are not currently reviewed by an independent entity. Complaints and appeal processes can also be extremely lengthy and cumbersome for students and families to endure, not to mention confusing. For example, an

¹³ Royal Commission into Violence, Abuse, Neglect and Exploitation (2023) Inclusive education, employment and housing – summary and recommendations. Final Report Volume 7, page 14

¹⁴ Linda J Graham et al., “Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian Government Schools,” 2020, page 14

internal review of a suspension can take up to 40 school days to complete, during which time the student may not be accessing any education (with the approach differing between regional offices). Permanent exclusion decisions can be reviewed initially and then annually, while a refusal to enrol decision can be reviewed externally by Queensland's Civil and Administrative Tribunal (QCAT). In the legislation, there is a right to external review for a 'review of a review decision'¹⁵ but it is very unclear which decisions this right applies to. It is not listed as applicable to all SDA decisions according to information provided by the Department of Education on their website, yet it is seemingly provided for in legislation.

An independent oversight body that would ensure education providers are meeting their legal obligations and which would investigate, monitor and resolve complaints has also been recommended by Children and Young People with Disability Australia (CYDA).¹⁶ It was also recommended by the inquiry into SDAs in South Australia.¹⁷

18. Introduce a right to representation

Ensure all students with disability who receive an SDA are automatically referred to an individual advocate.

All students with disability who receive an SDA should be automatically referred to an individual advocate. The advocacy service is to provide independent support and advice to students and families to help them navigate complaints and appeal processes. This automatic right to representation will help to ensure procedural fairness and will help to address the power imbalance between principals, schools and students and their families.

19. Monitor the use of informal exclusions

We know that informal exclusions (or 'take homes') can progress to longer, more formal absences. An informal exclusion may occur when a teacher phones a student's parent and requests that they take their child home. As removing a child from school fails to address the underlying issue resulting in the behaviour of concern, these informal exclusions tend to happen again. Before long, the student receives a suspension, perhaps initially short-term and then long-term, and subsequently experiences more severe suspensions and exclusions over time.¹⁸

¹⁵ Education (General Provisions) Act 2006 (Qld), s 394.

¹⁶ Children and Young People with a Disability (2023) CYDA's *submission to the Senate Education and Employment Reference Committee's Inquiry into "The issue of increasing disruption in Australian school classrooms"*, page 3

¹⁷ Linda J Graham et al., "Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian Government Schools," 2020, p18

¹⁸ Graham et al. (2020). *Inquiry into Suspension, Exclusion and Expulsion Processes in South Australian government schools: Final Report*. The Centre for Inclusive Education, QUT: Brisbane, QLD

The Department of Education should therefore be required to collect and publish data on the use of informal exclusions. This could be added to publicly available information on SDAs.

20. **Data collection**

Without sophisticated data that accurately captures key demographic information (including which students are receiving SDAs, for which behaviours and how often), effective policies that successfully reduce the prevalence of SDAs will remain elusive.

For example, increases in the number of incidents reported may give the impression that there are very many ‘badly behaved students’ who are increasing in number, when the reality could instead be that there is a much smaller number of very vulnerable students receiving very many SDAs.¹⁹

Disaggregated data on the use of SDAs must therefore be collected and made freely accessible to the public. This includes tracking the use of informal exclusions, the number of SDAs versus the number of students who receive an SDA, the intersectional characteristics of the students receiving SDAs, as well as the frequency with which some students receive multiple and repeat suspensions.

We recommend a requirement for the Department of Education to provide this information in an annual report to the Minister. The report should also include data on the types of disabilities held by students who receive SDAs as well as the relevant NCCD adjustment categories, and the reason for the SDAs.

21. **Review the criteria for issuing SDAs**

Review the criteria for issuing SDAs and reduce the number of permissible reasons for issuing an SDA, including banning the use of SDAs for minor incidents.

Stricter suspension criteria that reduce the number of permissible reasons for suspension including bans for minor incidents, as well as a significant reduction in permissible length (e.g. 3–5 days maximum) in line with international best practice is critical.

22. **Prescribe a list of matters to be considered**

As was proposed in the *Education (General Provisions) and Other Legislation Amendment Bill 2024*, there should be a list of matters that must be considered by a principal when making a

¹⁹ Graham, L.J., Callula Killingly, Alexander, M. and Wiggans, S. (2023). Suspensions in QLD state schools, 2016–2020: overrepresentation, intersectionality and disproportionate risk. *Australian Educational Researcher*. doi:<https://doi.org/10.1007/s13384-023-00652-6>, page 2

decision to suspend or exclude prescribed in legislation. Principals should also provide a response to these matters in an accessible format for the student and family.

The list should include matters such as:

- The seriousness and frequency of the student's suspension behaviour
- Other action the principal could take to adequately respond to the suspension behaviour while still allowing the student to attend school; and
- Whether the student is receiving sufficient support to manage behaviour, including access to reasonable adjustments and whether further adjustments could be made.

Conclusion

23. Whilst the Department's inclusive education policies increasingly reference human rights principles and an intention to ensure students with disabilities access an education on an equal basis with others, there continues to be a gap between policy and practice that must urgently be addressed. Policy guidance on the use of SDAs is encouraging but insufficient to truly reduce the disproportionate use of SDAs for students with disability. We need legislative reform to ensure quality, consistent decision-making and to ultimately provide accountability for SDA decision-making.
24. QAI recommends the Department of Education resume the work initiated by the previous Minister for Education regarding the introduction of Student Support Plans for students in particular cohorts who are at risk of receiving disproportionate school disciplinary absences, including students with disability, First Nations students, students in out of home care and students belonging to two or more of these groups.
25. QAI thanks the Committee for the opportunity to contribute to this inquiry. We are happy to provide further information or clarification of any of the matters raised in this submission upon request.