

Submission in response to the 2020 Disability Royal Commission Restrictive Practices Issues Paper

The Centre for Inclusive Education (<u>C4IE</u>) is founded on an understanding that Inclusive Education is a fundamental human right that enables all other rights. The Centre exists to produce research that will reduce exclusion and increase inclusion to provide all children and young people with equitable opportunities to learn and develop as independent and valued human beings. Researchers from C4IE put forward this position paper in response to the Disability Royal Commission's call for responses regarding Restrictive Practices. Our response speaks to the use and effects of restrictive practices in the school context.

The term 'restrictive practices' includes 'any practice or intervention that has the effect of restricting the rights or freedom of movement of a person, with the primary purpose of protecting the person or others from harm'^[1]. There are three main types of restrictive practice:

Seclusion includes the solitary confinement of a person in a room or area from which their free exit is prevented, for example by a barrier or a person. An example is locking a person in a room or locking a student outside the classroom in an enclosed courtyard, for a set period. This can include circumstances in which a student believes they cannot or should not leave an area without permission even if their free exit is not blocked^[2,3]. Seclusion is sometimes referred to as an *environmental* restraint.

Containment is similar to seclusion in that it involves a student being confined in a room or area from which their exit is prevented, however it is distinct in that it involves the student being accompanied by an adult in the room.

Restraint includes a range of interventions that limit the rights or freedom of a person. This includes:

- Physical restraint, which includes the use of physical force to prevent, restrict or subdue a student's movement. For example, holding a person down on the ground so they cannot move. This includes prone restraint which involves restraining a student on a surface with face and torso facing down, and supine restraint which involves restraining a student on a surface with face and torso facing up.
- Chemical restraint, for example, using medication to subdue a student's behaviour or advising a parent their child cannot attend school unless they are medicated.
- Mechanical restraint, for example, tying a person to a chair in a classroom, disconnecting the power of an electric wheelchair, or taking a person's communication device away from them.
- Psychosocial restraint, for example, threatening that a student cannot attend a camp or excursion unless they pay attention in class.

Restrictive practices have multiple effects on both students and staff. Restraint and seclusion breach fundamental human rights including autonomy, bodily integrity, and liberty, and can result in students being treated in ways that are degrading and which lack dignity^[4]. These practices are only ever meant to occur as a last resort due to the high risk of psychological injuries, physical injuries—such as bruising, scratching, broken bones and damage to joints—and death. There have been repeated calls for Australian education systems to regulate, reduce, and eliminate their use^[5,6,7,8,9,10]. Despite these rights breaches, risks and repeated calls for elimination, there is evidence that restrictive practices are being used beyond 'last resort' in Australian schools and that students with a disability is the group most impacted^[11,12,13].



Submission in response to the 2020 Disability Royal Commission Restrictive Practices Issues Paper

This position paper focuses on the issues that surround the use of restrictive practices in Australian schools, especially in relation to their use against students with disability. **We argue** that the use of restrictive practices conflicts with our obligations and young people's rights under international human rights conventions. **We observe** that the use of these practices differs considerably across education sectors and that they are used more frequently against students with disability. **We maintain** that the use of these practices can be both reduced and eliminated, but for this to occur, there needs to be a national commitment to regulating and monitoring their use with a view to reducing and eliminating them altogether through the use of proactive inclusive practices, positive behaviour supports, and appropriate reasonable adjustments.

1. Restrictive practices and human rights

Education is a human right and students with disability have a right to an inclusive education^[14]. For education to be truly *inclusive*, the rights of all students must be given equal attention. Article 14 of the Convention on the Rights of Persons with Disabilities (CRPD)^[15] states 'the existence of a disability shall in no case justify a deprivation of liberty'; Article 15 requires States Parties to take 'all effective legislative, administrative, judicial or other measures to prevent' cruel, inhuman or degrading treatment or punishment; Article 16 requires States Parties to prevent and respond to abuse; and Article 17 affords protections to both the physical and mental integrity of students. In 2016, the Committee on the Rights of Persons with Disabilities^[16], in their response to General Comment No. 4 on Inclusive Education stated,

"Persons with disabilities, particularly women and girls, can be disproportionately affected by violence and abuse, including physical and humiliating punishments by educational personnel, for example the use of restraints and seclusion ... State parties must prohibit all forms of corporal punishment, and cruel, inhuman and degrading treatment in all settings, including schools, and ensure effective sanctions against perpetrators."

In December 2017, the Australian Government also ratified the Optional Protocol on the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)^[17]. As a signatory, Australia is obligated to ensure that punishments that are cruel, inhuman, or degrading are prohibited as they constitute a human rights violation. The United Nations has repeatedly criticised the use of restrictive practices in Australian schools, and called for these practices to be regulated and monitored with a view to elimination^[18,19]. By ratifying OPCAT, the Australian Government is obligated to implement a system of regular preventive visits to places of detention by independent bodies known as National Preventive Mechanisms (NPMs). While an NPM has been nominated for the Commonwealth and Western Australia, and other states and territories must follow, limiting such preventive visits to places of detention and not including schools—especially segregated special classes, schools and "behaviour" schools—represents a missed opportunity to monitor, reduce and eliminate the use of restrictive practices in schools.

2. The use of restrictive practices in schools

A significant issue in the use of restrictive practices in Australian schools is the lack of publicly available data on their rates of use. While some states and territories do publish annual data, many do not. Education, disability, and care and protection providers in the ACT are required to report the use of all restraints to the Senior Practitioner^[20]. De-identified data show that 561 reports of restrictive practices were received in the 2018-19 year, including 48 uses of chemical restraint, 10 environmental restraints, 201 seclusions, 300 physical restraints, and two



Submission in response to the 2020 Disability Royal Commission Restrictive Practices Issues Paper

mechanical restraints^[21]. Of the total 561 restraints, only seven were used as a routine practice, with the remainder used as an emergency response. No data were provided to show the breakdown of these figures by service provider, so it is unclear how many of these restrictive practices were used on students with disability in educational settings. Data for the 2019-2020 year are due in coming weeks.

Since January 2020, Queensland government schools have been obligated to report the use of restrictive practices using the Department's OneSchool database but, at this stage, no deidentified data have been made publicly available. Since 2015, the Victorian Department of Education and Training has collected data from government schools but refuses to make these de-identified data publicly available. The state of play on the use of restrictive practices in the remaining Government sectors, and in the Catholic and Independent sectors, is unknown and warrants urgent attention given reports of their use in the media.

The lack of publicly reported data limits the ability of researchers to accurately analyse the extent to which restrictive practices are being used. It is impossible to say, with accuracy:

- how often students with disability are subjected to the use of restrictive practices,
- whether one type of practice is applied more frequently than others,
- which circumstances prompt the use of restrictive practices,
- whether they are more common in primary, secondary or segregated settings, or
- how these practices affect Australian students.

It is also unknown whether particular groups of students experience higher rates of restrictive practices; e.g., students with particular disabilities, those of a particular age, students who are culturally, linguistically or gender diverse; students from different racial backgrounds or those identifying as Indigenous. It is also unknown how intersectionality may impact rates of restrictive practice and whether some students (e.g., Indigenous students with a disability) are subjected to higher rates and/or different types of restrictive practices.

While data is not available through most education sectors, data collected by advocacy organisations provide some insight into the extent of restrictive practices in schools faced by students with disability. Results from the 2019 Children and Young People with Disability Australia (CYDA) National Education Survey indicated that one third of the 505 respondents (young people with disability and families/carers of children with disability) had experienced restraint or seclusion in the previous year^[22]. Eleven percent had experienced both restraint and seclusion. Over one fifth of respondents had experienced restraint in the last year, with physical restraint experienced most frequently, followed by psychosocial, mechanical, and chemical restraint.

The lived experience of students with disability who have endured restrictive practices at school are often shielded from public view. However, in recent years, mainstream media and social media outlets have provided a platform for some students and their families to share their stories. As recently as June 2020, The Age reported on multiple investigations of the use of restrictive practices in three Government schools in Victoria^[23]. One case that is currently before the Federal Court is that of Mathew Snell. Freedom-of-information requests have detailed around 80 school incident reports that document school staff holding Mathew in a secluded "time-out" space. On one occasion, his father arrived at school to collect Mathew, who was being held in,

"a storeroom which had no windows, no fresh air ... they were holding the door shut





Submission in response to the 2020 Disability Royal Commission Restrictive Practices Issues Paper

so that he couldn't get out... He was laying on the floor curled up in a ball sweating like a pig and he was red."

Similarly, in 2019, The ABC reported on a newly constructed lockable fenced outdoor area for adolescents on the autism spectrum^[24]. Parents of children who attend the school described the structure as a "cage" and likened it to a prison exercise area. As well as separating students from their peers, the structure did not enable access to drinking water or toilet facilities. This recent example bears striking similarity to the blue "cage" reported by the Canberra Times, that was built in an ACT school in 2015 and used to physically restrain a ten-year-old child on the autism spectrum^[25].

While mechanical restraints like cages and fenced outdoor areas make news headlines, there are many more examples of physical and other restraints that occur in the relatively unmonitored spaces within schools, including in regular classrooms. Classroom observations from a six-year longitudinal study in Queensland investigating the development of severely disruptive behaviour and provision of support to children in the early years of school has documented the use of practices that might not generate news headlines but which qualify as restrictive practices nonetheless.

During observations it was common to see students with a disability being secluded in separate spaces which they could not leave without permission. One Grade 3 boy with an intellectual disability spent his lessons alone in the kitchen area between two classrooms. Entry to the classroom was patrolled by the aide; no other students were allowed into the kitchen and he was not allowed out until break time. In a different school, another Grade 3 boy with a speech/language impairment verification spent the majority of his school day moving between three spaces: (1) the "Treehouse for children with difficulties" where he spent most of his time, (2) seated at a separate desk in the corridor outside the regular classroom, and (3) seated at a desk separated from his peers in the regular classroom. He was always accompanied by an aide and spent his playlunch in the Treehouse with no opportunities for free play.

The use of physical restraint was also observed. Importantly, the two students described in the scenario below did not have a disability and did not misbehave in the other class in which they were observed. The immediate problem was that they could not see the word that had been written on the board for them to copy down because the writing on the board was too small. Some children attempted to move themselves or their desks forward to see, while others gave up and occupied themselves in other ways:

The students on the computers just outside the classroom shout out to [Mr Smith] that the computers aren't on and he needs to help them log in. Whilst he's out of the room, children are climbing on desks, rolling around the floor, arguing... [Mr Smith] comes back in the room and grabs Patrick's arm and says, "If you're not following instructions..." but doesn't finish the sentence. He pulls firmly on Patrick's arm and tells him to go back to his seat – Patrick ignores him and stays where he is. [26]

[Mr Smith] picks up Cameron, who is sitting under the teacher's desk and moves him back into the group, pushing him down onto his bottom, but the child immediately crawls back. Another student, Bailey, approaches [Mr Smith], who pushes him in the chest several times, propelling him backwards, all the way to his seat. Bailey starts crawling on the floor and [Mr Smith] pulls him up off the floor by his arm... A short time later, Liam is out of his chair, so [Mr Smith] pushes him back into his chair and, when the child makes his body rigid so it won't bend to sit, the teacher pushes his hand into Liam's stomach to make him bend into



Submission in response to the 2020 Disability Royal Commission Restrictive Practices Issues Paper

a sitting position.[27]

Physical restraint is routinely practiced in some "behaviour schools" in the New South Wales government school system. Some of these special schools have locks on every door, which like detention centres, cannot be opened while another door in the same room is open. Staff wear walkie-talkies, most are male, and each is trained in the use of physical restraint. In some behaviour schools, restraint is used almost daily. Children as young as nine can be referred to these special schools and, although a confirmation of disability is not required for enrolment, most students have one. Of 33 student participants in a 2011 study of NSW government behaviour schools, 25 had been diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) and many had additional diagnoses, such as Oppositional Defiance Disorder, anxiety, and Autism Spectrum Disorder^[28]. Even with this cohort, however, restrictive practices were not necessary. One behaviour school principal, who had at the time of interview been teaching in these settings for 17 years-including several years in a secure Child and Adolescent Acute Psychological Hospital Unit-stated that she had never laid her hands on a student in her career, maintaining that her school practiced prevention and de-escalation strategies with success. Her school did not have locks on every door, staff did not wear walkie-talkies, and most were female, yet the students attending this behaviour school were indistinguishable from those attending behaviour schools that had all of these things and still used restrictive practices.

Another common experience among these students was the use of chemical restraint. All 25 students who had been diagnosed with ADHD stated that they either were or had, at some point, been medicated. Psychostimulants such as Ritalin were the highest prescribed medication type (60%), followed by anti-depressants (20%), anti-coagulants (8%) and lastly, anti-psychotics (8%). More than one third of these young people either was or had been taking more than one medication concurrently, with one student taking five highly restricted medications daily: Ritalin, Seroquel, Endep, Catapres, and Sodium Valproate. This combination of medications was confirmed by his mother in interview. When asked what they were taking the medication for, a number of students referred specifically to school^[29]:

To try and make me act better at school. (Harry, 11)

So I'm not bad at school. (Jack, 11)

Others noted that medication was made a condition of their enrolment or attendance at school.

The principal at [my old school] ... said if he's not put on medication by next week, because I got a week's suspension, I wasn't allowed to go back to school. They were going to expel me, so they [the doctor and my mum] put me on it. (Cameron, age 13)

They're not going to let me stay at this school unless I do take my meds. That's actually a contract that I signed on; that I won't come to school unless I'm on some of my meds. (Ethan, 13)

...the school suggested [to] my mum that I should take medication for my subjects, to see if I've got ADHD... One table would put me to sleep – which they – the school wanted my mum to keep taking – giving me them ones, because it's good for them when I went to sleep at school... They were happy with that. My mum wasn't because she wanted me to get help. [Interviewer: Why were they happy that you were asleep?] Because I wasn't annoying anyone or I wasn't having bad behaviour. I was just sleeping all day. (Owen, 12)



Submission in response to the 2020 Disability Royal Commission Restrictive Practices Issues Paper

Indigenous students are significantly overrepresented in NSW government support classes, behaviour schools and mental health special schools^[30], and their overrepresentation in these settings is increasing^[31]. Indigenous students would, simply by virtue of their overrepresentation in these settings, be subject to restrictive practices to a higher degree than non-Indigenous students. A substantial proportion of students in NSW behaviour schools "graduate" to juvenile detention where restrictive practices are used routinely^[32].

It is clear, when discussing the regulation of restrictive practice use in Australian schools, that systemic reform is long overdue. While education policy permits the use of restrictive practices to minimise harm, evidence shows these practices are also being used as punishments or in lieu of positive and effective behaviour management strategies^[33], and urgent action is needed if we are to reduce and eliminate the use of these practices in schools.

3. Policies on restrictive practices in Australian schools

Regulatory frameworks that govern the use of restraint and seclusion in Australian schools have been criticised for conflicting with the human rights of students, and our international human rights obligations^[34]. These regulatory frameworks differ between each Australian jurisdiction, and include a broad and complex framework of legal and ethical responsibilities from a range of legislative and common law sources including workplace health and safety (WHS) legislation, anti-discrimination laws, criminal law, the doctrine of necessity, the law of negligence, and in some jurisdictions human rights legislation^[35]. Within these complex legislative frameworks, some may claim that restrictive practices are permissible, or necessary, to protect the student or others from harm and to meet their duty of care. Failure to protect students from harm could also pose a risk of criminal negligence claims in some circumstances. As a result, schools at times position students with disability as sources of risk or harm and develop plans that include the use of restrictive practices as pre-emptive management strategies^[36].

However, international human rights obligations are clear that States Parties must implement strategies including through regulatory frameworks that are aimed at reducing and eliminating the use of such practices in schools, and supporting education staff to meet their statutory and common law duties *without* resorting to restrictive practices. This includes through the implementation of inclusive practices and positive behaviour supports that are aimed at ensuring all students are supported to participate on an equal basis, thereby reducing prospects of more serious interventions like restrictive practices being used. Further, even if the use of restrictive practices may be permissible under some laws and in specified circumstances to prevent harm, the use of these practices also risk causing harm. Improper use of restrictive practices may render educators legally liable, including for assault or other criminal offences.

Improper use of restraint and seclusion in Australian schools has been documented in multiple reports from inquiries and reviews^[37,38,39,40,41,42,43,44,45,46,47]. Further, there is widespread parent and carer anger regarding the use of restrictive practices, particularly when applied to students with disability^[48,49,50,51,52]. The regulation of restrictive practices differs between each jurisdiction.

Some jurisdictions provide for the use of restraint in their regulations. For example:

 in Western Australia, "a member of staff of a government school may, in the performance of the person's functions, take such action, including physical contact



Submission in response to the 2020 Disability Royal Commission Restrictive Practices Issues Paper

- with a student or a student's property, as is reasonable to manage or care for a student, to maintain or re-establish order, or to prevent or restrain a person from placing at risk the safety of any person, or damaging any property"[53];
- in Victoria, "a member of staff of a Government school may take any reasonable action that is immediately required to restrain a student of the school from acts or behaviour that are dangerous to the member of staff, the student, or any other person." [54]

Otherwise, restrictive practices in schools is generally regulated through education policies and procedures. Where policies exist on the use of restrictive practices in Australian schools, these generally serve to regulate, rather than prohibit or discourage, the use of these practices^[55].

In 2018, a comparative analysis of Australian jurisdictions' regulatory frameworks governing the use of restraint and seclusion in government schools demonstrated that most jurisdictions provide some guidance about the use of restraint and seclusion, and that there is significant variation in the regulation of these practices.^[56]

Table A: Types of practices regulated per jurisdiction^[57]

Jurisdiction	Type of practices regulated	
	Restraint	Seclusion/time out
Queensland	Physical restraint only	Time out only
NSW	Physical restraint only	Time out only
Victoria	Physical and mechanical restraint	Seclusion and time out
ACT	Physical restraint	Seclusion and time out
Tasmania	Physical restraint only	N/A
South Australia	Physical restraint only	Seclusion and time out
Western Australia	Physical restraint only	Protective isolation and withdrawal
Northern Territory	Physical restraint only	N/A

It is noted that these findings were published in 2018 and some jurisdictions have implemented new policies and procedures since. For example, in 2020 the Queensland Department of Education published a new *Restrictive Practices Procedure*^[58] which more clearly defines and regulates the use of a range of restrictive practices including seclusion, containment, physical restraint, mechanical restraint and chemical restraint. The South Australian government also recently released a new Behaviour Support Policy^[59] which states that the overuse or unauthorised use of restrictive practices cause long-term harm, trauma, and infringe civil and human rights. This policy, however, provides no further information about any *authorised* use of restrictive practices.

The policies of the education departments in the Australian Capital Territory (ACT)^[60], Queensland^[61], and Victoria^[62] share similarities in the way restrictive practices are defined and regulated. Each mandate that restrictive practices are only authorised where there is an imminent or foreseeable risk of harm to the safety of the student, or others. In the ACT, it is specified that this is a strategy of "last resort". Further, the ACT policy acknowledges that the use of restrictive practices limits both the liberty and freedom of movement of a student, so caution that the primary purpose must be protection from harm. Further, staff are encouraged to use these practices within a context where positive behaviour support approaches have been first adopted. Finally, the ACT policy mandates that restrictive practices must never be used to gain student compliance. Similarly, the Queensland policy requires staff to consider less restrictive measures before adopting restrictive practices. There is one significant difference in the



Submission in response to the 2020 Disability Royal Commission Restrictive Practices Issues Paper

Queensland policy. It permits the planned use of restrictive practices, which much be prescribed by an appropriately qualified health professional, when "necessary and in the best interests of the student, based upon an assessed need and agreed in advance in order to provide essential healthcare or personal care"^[63]. This practice has been defined as "clinical holding". What remains unknown is whether schools are also using these practices as planned approaches at other times.

As of 2018, the use of physical restraint is permitted in all Australian jurisdictions. We are not aware of any changes prohibiting such practices in any jurisdiction. In Queensland and Victoria, physical restraint is defined as the use of a "physical force to prevent, restrict or subdue movement", with the word "prevent" missing from the ACT's policy. The Victorian policy further states that

"...in some limited circumstances, it may also be necessary to restrain a student from imminent dangerous behaviours by secluding them in an area where such action is immediately required to protect the safety of the student or any other person." [64]

While each jurisdiction permits the use of physical restraint, not all provide a clear definition of what is considered a physical restraint. In NSW, for example, the *Legal Issues Bulletin 9 – Physical restraint of students* indicates physical restraint may be warranted in response to behaviour that threatens the safety of another person, or which may lead to self-harm or injury, but does not provide a clear definition of physical restraint.

In Victoria, policy states that "take-downs which allow students to free-fall to the ground whether or not in a prone or supine position or otherwise" must not be used^[65]. The ACT and Queensland policies prohibit the use of prone physical restraints. Prone restraints involve a student being placed face-down, where they are held in place by one or more individuals. Many of the serious injuries and deaths that have occurred overseas have been because of the use of prone restraint, as this can lead to asphyxiation. Despite this, most jurisdictions do not prohibit the use of such practices.

The use of mechanical restraint is permitted in the ACT and Queensland but prohibited in Victoria. The Queensland policy offers examples, including clothing designed to prevent injury (such as soft wrist cuffs or mittens to prevent hand biting), or helmets (to protect during head banging or prevent hair pulling). Despite the significant rights infringements involved in such practices, mechanical restraint remains permitted or unregulated in most jurisdictions.

The use of chemical restraint, that is, medication used to subdue or control a student's behaviour, is prohibited in the Queensland and Victorian policies, but not mentioned in the policy of the ACT. We have not observed any regulation of these practices in other jurisdictions' policies and procedures. Our earlier examples of the use of chemical restraint in NSW government schools indicates that this practice may be widespread and that clear policies are necessary to guide practice in every sector and state of Australia.

The ACT, Queensland, and Victoria policies each permit the use of seclusion, which is defined using terms like "solitary confinement", "in a room or area", and "exit is prevented". Both Queensland and Victoria extend their definitions of seclusion to include "where a student is left alone in a room or area and reasonably believes they cannot leave that room or area even if physically possible". In these circumstances, the student's exit is not physically prevented, but a psychosocial restraint may also be used, e.g., threats that if the student leaves the room they



Submission in response to the 2020 Disability Royal Commission Restrictive Practices Issues Paper

will be suspended. In Western Australia, schools are permitted to use 'protective isolation' which is defined in terms similar to seclusion in other jurisdictions.

The Queensland policy differs from their interstate counterparts, by introducing the term "containment". Containment is defined as,

"Planned restrictive practice that involves a single student in a room or area for the purpose of engaging in learning. The room is secured by a fob or similar system (or other mechanism) and the student's free exit is impeded. The student is always accompanied in the room, by at least one adult and the student is not left alone in that room or area" [66]

Finally, the Victorian policy states,

"The decision about whether to use physical restraint or seclusion rests with the professional judgment of the staff member/s involved, who will need to take into account both their duty of care to their students, their right to protect themselves from harm and obligations under the Charter of Human Rights and Responsibilities Act 2006." [67]

Evidently the use of restrictive practices remains permissible in most forms in most jurisdictions. While some Australian jurisdictions have recently amended policies and procedures to provide more clear guidance on their use, most existing regulatory frameworks do not effectively discourage their use in line with international human rights obligations. Furthermore,

There is a lack of clarity and consistency across jurisdictions in the types of practices regulated, definitions of restraint and seclusion practices, and delineating these practices from other similar practices (such as physical redirection and time out). This should be rectified. Education personnel in many jurisdictions currently have limited guidance to draw upon to inform their interventions to protect students from harm. Lack of clear guidance may increase the risk that behaviour management interventions are used inappropriately — whether intentionally or unknowingly — or with limited regard to, or understanding of the rights implications of their use. Lack of clarity and consistency in terminology and definitions may also result in inaccurate reporting of these practices, and limit the jurisdiction's capacity to collect and analyse reliable data on their use.^[68]

4. Actions required to reduce and eliminate the use of restrictive practices in schools

At present, there are gaps within publicly available education policy on the use of restrictive practices in Australian government schools. This gap could be closed through the creation of a national framework to regulate restrictive practices in schools, similar to that used in the disability sector^[69]. Embedded within this framework could be independent oversight and monitoring of the use of these practices in schools. Independent oversight would provide for the opportunity to review, during incidents where restrictive practices were used, whether:

- there was a risk of harm to the student or others,
- through a functional behaviour assessment, the antecedents (the events immediately prior to the incident, e.g., the student was asked to work in a group) or any setting events (any conditions that contributed to the incident, e.g. the



Submission in response to the 2020 Disability Royal Commission Restrictive Practices Issues Paper

student had recently argued with a student in that group) could have been varied to prevent escalation,

- restrictive practices are used disproportionately against any particular set of learners (e.g., students with autism, students with language delay, etc.),
- inclusive practices that support the identification and removal of curricular, pedagogical and environmental barriers through reasonable adjustments have been or could be implemented,
- an effective positive behaviour plan is in place and likely to reduce or eliminate the future use of restrictive practices.

Findings from monitoring these practices could lead to more informed teacher professional learning and further improvement to existing policies.

There are two existing data collection systems that could be used to support monitoring, thereby improving practice and accountability. The My School website^[70] could include data on the use of restrictive practices in the same way that attendance data are reported. Alternatively, data could be collected and reported through the Nationally Consistent Collection of Data on School Students with a Disability^[71]. With available data, researchers working in partnership with education jurisdictions can investigate the factors that contribute to the use of restrictive practices, and offer research and training to reduce, and eliminate, their use.

We further propose that there needs to be more active engagement of people with disability in the design of education policy. In line with Articles 4 and 33 of the CRPD, and the *Disability Standards for Education 2005*^[72], students with disability, or their associates, should be actively consulted in relation to all aspects of their educational program^[73]. The formal involvement of adults with disability, and organisations that represent students with disability, in stakeholder reference groups or advisory committees responsible for restrictive practice policy and implementation is one strategy that can lead to the reduction and elimination of these practices use in Australian schools^[74]. Further, the over-reliance on teacher aides is concerning as it places the responsibility for addressing the greatest educational challenge in the hands of the staff member with the least formal training^[75].

There is a lack of evidence that restrictive practices have any positive impact leading to the reduction of behaviours of concern^[76]. These should, in the first instance, be minimised through the provision of high-quality inclusive teaching where barriers to access and participation are anticipated and designed out drawing on the principles of universal design and through the provision of reasonable adjustments.^[77,78] High quality instructional practices have been found to be lacking for students with disability^[79], and demands broad systemic change to "Tier 1" classroom teaching. Embedded within high-quality inclusive teaching is the explicit teaching of expectations and behaviours using evidence-based practices, such as those employed through Positive Behaviour Interventions and Supports (PBIS).

PBIS is a multi-tiered system of support, which provides schools with an organisational framework to address student behaviour. At the first tier of PBIS, students are encouraged to demonstrate expected behaviours, taught prosocial skills, and teachers are trained to respond consistently when students make behavioural errors. There is an increased focus on the personal and social capabilities of the curriculum not just at a whole school or a whole class level but tailored to support individual students who may benefit from high intensity supports. The school explicitly focuses on how to nurture school connectedness and engagement for all learners.



Submission in response to the 2020 Disability Royal Commission Restrictive Practices Issues Paper

Where problem behaviour persists, teachers are trained to understand the function of the behaviour, and to make adjustments to remove conditions that contribute to the occurrence of behavioural concerns. Greater flexibility is provided through negotiated timetables and attendance to support students' mental health, increased flexible approaches to learning that go beyond traditional classroom approaches, more availability of access to a range of different learning experiences that increase the relevance of learning for all students across a range of different learning environments. Working in partnership with parents is highly valued, with access to multidisciplinary support in schools to help understand the function behaviour serves in individual students. Spaces are available within the school environment that students can access—on their own volition—to manage their anxiety and stress levels, rather than allowing these to escalate and result in the use of seclusion.

Severe behaviour usually sits "at the end of a chain of escalating behavior interactions" [80]. Foundational work in prevention and de-escalation has been shown to reduce problem behaviour [81], but applying specific strategies to achieve this are poorly understood by school staff [82]. Additional training for teachers in how to de-escalate student behaviour is an important key in the reduction, and potential elimination, of restrictive practices. Improved training in deescalation of student behaviour has been found to support teachers' ability to respond to student behaviour before it poses a risk to the safety of the student or others [83]. Innovative approaches, such as that pioneered by the Autism CRC Knowledge Centre, have been applied for supporting students with complex learning profiles in rural locations [84].

In summary, we propose:

- Developing a national framework regulating restrictive practices, with reporting independently monitored. A consistent application of restrictive practice policy across Australia, with data on the use of restrictive practices independently monitored, ensures that our obligations under international human rights treaties are adopted within domestic practice.
- 2. Increasing active engagement of people with disability in the design of education policy. People with disability, and the peak organisations that represent them, often have lived experience of violence, abuse, neglect, and exploitation, and offer unique insights into how restrictive practices in schools can be regulated, reduced, and eliminated. Their voices must be heard.
- Enact system reform across sectors to implement genuine inclusive education with a
 focus on the use of proactive strategies and universal design principles to minimise the
 barriers to access and participation for students with disability as a first-line approach to
 quality teaching.
- 4. Implement Multi-Tier Systems of Support (MTSS) as a unifying framework to draw together and promote evidence-based practices across academic, social-emotional and behavioural domains.
- 5. Implementing systemic change to the way behaviour is managed in schools. The implementation of Positive Behavioural Interventions and Supports, with fidelity, is a proven framework for reducing the rates of restrictive practices use in schools.

Submission in response to the 2020 Disability Royal Commission Restrictive Practices Issues Paper

5. Conclusion

Students subject to the use of restraint and seclusion in Australian educational settings do not provide consent, yet restrictive practices may be lawfully used when there is an imminent risk of danger to the student, their peers, or staff. For too long, some students in our schools have been treated in ways that are punitive, rather than focusing on and addressing the primary drivers of the behaviours for which restrictive practices are belatedly employed^[85]. For students with disability, Australian education jurisdictions are failing to meet our human rights obligations specified in the CRPD. The moves by the departments of education in the ACT, Queensland, and Victoria to collect data on the use of these practices signal their willingness to address this issue. If made publicly available, data on the use of restrictive practices could offer rich insights into their use with greater opportunity to develop potential solutions. However, we must first reform the legal and cultural norms that give approval to these practices^[86] and engage in systemic reform to address the barriers that give rise to the behaviours for which restrictive practices are then called into use.

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