March 2022

To Ministry of Education (MoE)

Please find below DPA’s submission on the Highest Needs Review.

## Disabled Persons Assembly NZ

Contact:

## **Prudence Walker**

## **Chief Executive**

## **021 546 006**

## [**policy@dpa.org.nz**](mailto:policy@dpa.org.nz)

# Introducing Disabled Persons Assembly NZ

The Disabled Persons Assembly NZ (DPA) is a pan-impairment disabled person’s organisation that works to realise an equitable society, where all disabled people (of all impairment types and including women, Māori, Pasifika, young people) are able to direct their own lives. DPA works to improve social indicators for disabled people and for disabled people be recognised as valued members of society. DPA and its members work with the wider disability community, other DPOs, government agencies, service providers, international disability organisations, and the public by:

* telling our stories and identifying systemic barriers
* developing and advocating for solutions
* celebrating innovation and good practice

# Acknowledgements

DPA wishes to acknowledge the Education for All Form for it’s significant work which has contributed to this response.

# United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)

## **Government obligations:**

The UNCRPD[[1]](#endnote-1) places an obligation on Government to ensure and promote the full realisation of all human rights and fundamental freedoms for all disabled people without discrimination of any kind on the basis of disability.

## **UNCRPD is the minimum standard:**

DPA upholds the UNCRPD as the minimum standard for our participation in society.

## **Partnership with DPOs (Article 4.3):**

The implementation of the UNCRPD depends on a partnership between DPOs and the Government. This is highlighted in Article 4.3 which says governments shall consult closely with and actively involve disabled people, including disabled children, through their representative organisations. This partnership goes beyond just consulting with disabled people. It mandates governments to actively involve disabled people and our organisations in everything that affects us.

Other key Articles of the UNCRPD relevant to this submission are:

## **Article 3 - General Principles**

The principles of the present Convention shall be:

1. Respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons;
2. Non-discrimination;
3. Full and effective participation and inclusion in society;
4. Respect for difference and acceptance of persons with disability as part of human diversity and humanity;
5. Equality of opportunity;
6. Accessibility;
7. Equality between men and women;
8. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

## **Article 5 - Equality and Non-Discrimination**

## **Article 7 - Children with Disabilities**

## **Article 24 – Education**

Also of particular importance here is the UNCRPD’s General Comment 4: Article 24: on the Right to Inclusive Education[[2]](#endnote-2).

# The New Zealand Disability Strategy (2016 - 2026)

The New Zealand Disability Strategy[[3]](#endnote-3), which is the Government’s primary vehicle for implementing the UNCRPD, has the following outcome relevant to this review:

## **Outcome 1 - Education**

# The Submission

DPA believes that a review of provision for only a subset of disabled learners will not bring about the necessary changes needed to create a truly disability inclusive education system in Aotearoa, rather we need a whole system change to make this a reality.

## **Enforceable right to disability inclusive education**

* Disabled students in Aotearoa/New Zealand do not currently have a right to inclusive education and this review does not provide for this.
* New Zealand has obligations under the UNCRPD to provide and uphold the right to inclusive education.
* Reasonable accommodation and what this means needs to be defined in law and policy.
* Reasonable accommodation requires an individualized / flexible approach rather than “one size fits all”. For example, Deaf children require an Educational Interpreter, not a Teacher Aide.
* A child-centered approach would reflect knowledge of and investment in reasonable accommodation rather than the rationing system we have now.
* A child’s right to inclusive education requires well prepared schools which are able to accommodate the child’s individual requirements and provide accessible learning environments. A whole school and whole system approach is required.
* The current resourcing and policy framework which is based on the rationing of capped funding buckets is the antithesis of a child-centered approach. The policy and resourcing framework needs to be transformed to respond to disabled children’s rights to reasonable accommodation and accessible learning environments.

### Recommendation 1.

In accordance with its obligations under Article 24 of the UNCRPD, DPA recommends that the Government introduces an enforceable right to inclusive education, and that reasonable accommodation is introduced as a key element of the legislative and policy framework.

### Recommendation 2.

DPA recommends that the Education and Training Act, 2020 is amended to include a substantive right to inclusive education and reasonable accommodation and a clear definition of inclusive education and reasonable accommodation.

### Recommendation 3.

DPA recommends that Government review and replace the current policy and resourcing framework so that it responds to the accommodations, specialist support services and accessible learning environments required by disabled students.

## **Replace deficit language**

* There is an urgent need for a genuine change in language so that any thinking or policy development does not immediately move into a deficit space.
* The title of this review itself is exclusionary and sets the wrong tone for the review. When we think of inclusive education we do not categorise children in that way i.e. highest need for learning support, we think of all children.
* This review should be focused on providing what is needed for every child to have what they require to access education and have good outcomes from their education.
* We need to move away from a deficit focus and how that views and values disabled people. We should be using the language of reasonable accommodation rather than supports which implies disabled people cannot live without being dependent on others. Words such as “special” and “need” should be replaced with mana-enhancing language.

### Recommendation 4.

DPA recommends that the Ministry of Education reviews and replaces deficit language in all communications, including documentation relating to the Highest Needs Review.

## **Inclusive education promotes social cohesion**

* Inclusive education is central to the development of inclusive communities, social cohesion and enhancing positive lifelong outcomes for all students, including disabled students.
* By educating all children together you build up trust, understanding, empathy, tolerance and therefore start to build a more socially cohesive society.

### Recommendation 5.

DPA recommends that the Ministry of Education recognises, values and promotes the role of a disability inclusive education system in promoting social cohesion.

## **Independent education tribunal or arbitration mechanism**

* There is currently no timely and effective mechanism for reviewing decisions made by Boards of Trustees, Schools or the Ministry of Education, in order to provide redress when disabled students experience unlawful discrimination.
* Independent oversight and enforceability around the child’s rights to inclusive education, reasonable accommodation and accessible learning environments is required.

### Recommendation 6.

DPA recommends that an independent education tribunal or arbitration mechanism is established to review decisions by Boards of Trustees, Schools and the Ministry of Education in respect of disabled student’s rights to inclusive education, reasonable accommodation and accessible learning environments.

## **Disabled leadership**

* There is a lack of disabled leadership in the education sector: disabled learners rarely encounter disabled teachers or school leaders; there are few disabled people in senior system-wide leadership roles.
* Disability leadership needs to be built in schools and the system more widely. It needs to be grown and nurtured so that disability perspectives are taken into account at every level of the education system.

### Recommendation 7.

DPA recommends that the Ministry of Education work with disability organisations, education trade unions and wider education sector organisations to create disability leadership within the education sector.

## **Child’s identity**

* Disabled children aren’t broken and don’t need to be fixed. They have inherent value in being disabled people and their disabled identity should not be denied or minimized.

### Recommendation 8.

DPA recommends that the Ministry of Education, in partnership with disabled people’s organisations, commission a programme to support all learners and staff in the education sector to promote, celebrate, nurture, respect and preserve the identities of disabled children and young people.

### 

1. https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html [↑](#endnote-ref-1)
2. https://www.right-to-education.org/resource/general-comment-4-article-24-right-inclusive-education [↑](#endnote-ref-2)
3. https://www.odi.govt.nz/nz-disability-strategy/ [↑](#endnote-ref-3)