15th July 2020

To **Ben O’Meara**

Please find below DPA’s feedback on the draft Supplementary Order Paper (SOP) for the Education and Training Bill.

## Disabled Persons Assembly NZ

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# DPA Feedback

DPA greatly appreciates being given the opportunity to provide feedback on the draft SOP. We support the overall direction of this SOP which addresses most of the significant concerns we raised previously in our submission on the Education and Training Bill around the proposed clauses on physical force. DPA had significant concerns that expanding to allow physical force in the classroom would increase the risk of harm for disabled children.

In particular we are pleased to see the terminology revert from “physical force” to “physical restraint” and the formulation revert from permissive (“may . . . only if . . .”) to restrictive (“must not . . . unless . . .”) . Both of these are changes that we sought in our earlier submission.

DPA also supports the new requirement that authorised staff members must be trained and supports the guidelines in clause 97 being extended to cover “behaviour management” as well as restraint.

We are however, concerned with the definition of harm being extended to include emotional distress suffered by the student or other person. We consider the inclusion of emotional distress to be subjective and unhelpful and we are concerned that it will allow the use of restraint to be used in situations where there are other, better and more appropriate options for reducing or preventing emotional harm.

In particular we are concerned that there is a risk that some behaviours by neurodiverse and autistic children (such as stimming, which could be found emotionally distressing by other children and/or teachers due to lack of understanding or awareness around these behaviours) will be responded to by using physical restraint. We are aware of incidents where teachers have used physical restraint inappropriately on children to prevent stimming, and this has resulted in emotional harm to the child.

It also needs to kept to the forefront of decision making that physical restraint can be harmful, not just for the child being restrained, but for the other children witnessing the restraint being used. The impact of seeing another child subjected to physical restraint by a teacher can be long lasting and damaging.

DPA is concerned that if emotional distress is retained in the SOP, then this will lead to physical restraint being normalised as a way of handling disruptive behaviours under the justification that these behaviours were causing emotional distress to other students. In our view, such change would be regressive, cause significant harm in the long term and undo the progress that is being made in many schools towards creating a genuinely inclusive education environment.

DPA strongly recommends that emotional distress be removed from the definition of harm.