



## Universal Periodic Review of Australia (Fourth Cycle)

### Submission by All Means All – The Australian Alliance for Inclusive Education

#### Australia's Failure to Ensure Inclusive Education and the Expansion of Segregation of People With Disability

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#### INTRODUCTION

##### About All Means All

1. All Means All – The Australian Alliance for Inclusive Education (**All Means All**) is a nationwide multi-stakeholder organisation working towards the implementation of an Australian inclusive education system and the removal of the legal, structural, and attitudinal barriers that limit the realisation by some students, including students with disability, of their fundamental human right to inclusive education. Our work is guided by the principles embodied in the applicable international human rights treaties and instruments, including the *Convention on the Rights of the Child (CRC)*<sup>1</sup> and the *Convention on the Rights of Persons With Disabilities (CRPD)*<sup>2</sup>.
2. All Means All is a member and the Chair and national Co-convenor of the [Australian Coalition for Inclusive Education \(ACIE\)](#), an initiative that brings together organisations from around Australia that share a commitment to advance Inclusive Education in Australia. ACIE is a national coalition of 25 not-for-profit organisations that have a combined representative membership of over 1.2 million. We are also a member of [Inclusion International](#), the international peak body representing people with intellectual disability and their families, and the [Equitable Education Alliance \(EEA\)](#), an Asia-Pacific focussed community of practice for organisations, ministries, agencies and NGO's working towards more inclusive and equitable educational systems and the achievement of Goal 4 of the *Agenda for Sustainable Development*<sup>3</sup> (**SDG4**) on inclusive and equitable education.
3. All Means All makes this submission (this **Submission**) as an Australian civil society stakeholder concerned with Australia's failure to uphold its obligations under international human rights law to ensure inclusive education for all.

##### Summary of key human rights concerns and recommendations

4. Australia has failed to take effective measures to transform its education systems in line with Article 24 of the CRPD, and instead permits, maintains, and is actively expanding segregated 'special' education settings that separate children and young people on the basis of disability and entrench systemic inequality, discrimination, and social exclusion. This not only constitutes a form of disability-based

<sup>1</sup> United Nations General Assembly, *Convention on the Rights of the Child*, 2 September 1990, United Nations, Treaty Series, vol. 1577, p.3

<sup>2</sup> United Nations General Assembly, *Convention on the Rights of Persons with Disabilities*, 13 December 2006, United Nations, Treaty Series, vol. 2515, p. 3.

<sup>3</sup> United Nations, *Transforming our World: The 2030 Agenda for Sustainable Development*, GA Res 70/1 (adopted 25 September 2015) Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all. See also *Department of Economic and Social Affairs*, "Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all" (un.org), online.

discrimination in breach of the immediately realisable rights to equality and non-discrimination under Article 5 of the CRPD<sup>4</sup>, but also amounts to retrogression in violation of Article 24. Rather than progressively realising an inclusive, universally accessible, and high-quality education system for all, Australia continues to invest in parallel systems that isolate and marginalise students with disability.

5. For the reasons outlined in this Submission, All Means All proposes that the Human Rights Council adopt the following recommendations which are explained in more detail in paragraph 31 of this Submission:
  - **Recommendation 1: Australia must adopt a National Inclusive Education Roadmap with a timeline for desegregation.**
  - **Recommendation 2: Australia must uphold non-retrogression and halt the expansion of segregated settings.**
  - **Recommendation 3: The Human Rights Council should clarify that co-located segregation is not inclusion.**
  - **Recommendation 4: Australia must ensure participation of people with disability in implementing all reforms to ensure inclusive education.**
  - **Recommendation 5: Australia must regularly report to the United Nations system and future Universal Periodic Review cycles on progress towards inclusive education and support the monitoring role of Australian Human Rights Commission.**

#### Support from Australian civil society

6. In making this Submission, All Means All recognises that there are numerous pressing human rights concerns warranting attention in the context of Australia's Universal Periodic Review and we express our full support for the broader issues raised in the Australian Human Rights Commission's Report (**AHRC Report**) as Australia's 'A status' national human rights institution and in the Joint NGO Report on behalf of the Australian NGO Coalition (**Joint NGO Report**), as well as, of course, their respective recommendations regarding the systemic segregation of people with disability in education.<sup>5</sup> In this regard, the AHRC Report has recommended the Australian government 'eliminate segregation of people with disability in education, housing and employment' and 'redirect resources to removing barriers that perpetuate segregation'<sup>6</sup> and the Joint NGO Report has recommended that 'Australia must implement DRC recommendations regarding full desegregation in education, employment and housing, and incorporate DRC recommendations into Australia's Disability Strategy with binding targets and legislative mandates.'

#### Urgency of the issue

7. All Means All's focused participation through this Submission affirms our ongoing commitment to engaging with the United Nations human rights system and contributing our specialist expertise to the promotion and protection of the right of children and young people with disability to inclusive education. Although we recognise that this issue has also been addressed by other stakeholders within broader submissions, we consider it essential to make a stand-alone contribution that centres inclusive education and reflects the urgency of the issue, particularly in light of Australia's ongoing and serious non-compliance with its obligations under Article 24 of the CRPD. We are especially concerned by what appears to be an emerging policy orientation in Australia toward the expansion of segregated education through the increasing promotion and investment in the 'co-location' of segregated 'special' schools and settings alongside mainstream schools. While often presented as a step toward inclusion, this approach risks further entrenching structural segregation under a different name and is fundamentally incompatible with the obligation to progressively realise a single, inclusive education system that ensures non-discrimination and full participation for students with disability that has long been denied and delayed.

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<sup>4</sup> Committee on the Rights of Persons with Disabilities, *General Comment No 6: Equality and Non-Discrimination*, 19th sess, UN Doc CRPD/C/GC/6 (26 April 2018), at [12], [23] and [42(b)].

<sup>5</sup> See para 35 of the Australian Human Rights Commission, *Submission to Australia's Fourth Universal Periodic Review* (Submission, July 2025) <https://humanrights.gov.au/sites/default/files/2025-07/The%20Commission%27s%20submission%20to%20Australia%27s%20Fourth%20Universal%20Periodic%20Review.pdf>

<sup>6</sup> *Ibid*, see text box immediately following para 35.

## Approach in this Submission

8. The positions outlined in this Submission have regard to applicable treaty texts and works of relevant treaty monitoring bodies, applying the rules of interpretation codified in the Vienna Convention on the Law of Treaties. The Submission draws, in particular, on the content and scope of the right to inclusive education guaranteed by Article 24 of the CRPD and explained by the CRPD Committee in its 2016 General Comment No.4 (Right to Inclusive Education)<sup>7</sup> and the right to equality and non-discrimination guaranteed by Article 5 of the CRPD and explained by the CRPD Committee in its 2016 General Comment No.6 (Right to Equality and Non-discrimination)<sup>8</sup>.

## THE AUSTRALIAN CONTEXT: LEGAL OBLIGATIONS AND HISTORY OF COMPLIANCE FAILURE

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### The human right to education

9. The realisation of the right to education on the basis of equality and non-discrimination is vital for prosperous, stable and inclusive societies. Education empowers individuals, promotes equality and social justice, improves health and well-being, fosters peace and stability, contributes to sustainable development, and drives economic growth. Participation in education leads to participation in all areas of life and to the extent that the participation in education is denied, constrained, or provided on a discriminatory basis, this impacts the realisation of all other human rights and leads to marginalisation and disadvantage.
10. The right to education has been recognised in a range of international human rights instruments and its expression has, for important reasons, evolved in the 70 years since the Universal Declaration of Human Rights, adopted in 1948, first stated the universality of the right in Article 26:  
*Everyone has the right to education.*
11. Subsequent international treaties have reaffirmed the right to education generally<sup>9</sup>, with thematic treaties and other human rights instruments also addressing the right to education in relation to specific groups<sup>10</sup>.
12. While education is considered an economic, social and cultural right, it is also related to many other human rights because the enjoyment and realisation of other rights is dependent on realisation of the right to education.<sup>11</sup> This relationship between the right to education and other rights illustrates the indivisibility and interdependence of all human rights and why it is important for governments to guarantee the right of education as a human right of all citizens:  
*As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can ... obtain the means to participate fully in their communities.*<sup>12</sup>
13. The CRPD, which was ratified by Australia in 2008, provides the most up-to-date substantive expression of the right to education in its Article 24, and the fundamental principles that underpin it. It is also the first international treaty Article to expressly recognise that inclusive education is the means by which people with disability realise their right to education, and to impose a legal obligation on State parties to ensure an inclusive education system at all levels, with a correlative right to inclusive education. During the drafting of the CRPD, the Australian Government affirmed that students with disability have the right to be educated in the general education system alongside their peers in the communities in which they live<sup>13</sup>.
14. Broadly, while the CRPD, including Article 24, draws on principles embodied in the earlier human rights

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<sup>7</sup> Ibid.

<sup>8</sup> CRPD/C/GC/6 (n 4).

<sup>9</sup> *International Covenant on the Elimination of All Forms of Racial Discrimination* (1965); *International Covenant on Economic Social and Cultural Rights* (1966).

<sup>10</sup> *Convention on the Elimination of All Forms of Discrimination against Women* (1979); *Convention on the Rights of the Child* (1989); *International Convention on the Protection of the Rights of All Migrant Workers and Members of their families* (1990); *Convention on the Rights of Persons with Disabilities* (2006).

<sup>11</sup> United Nations General Assembly, Human Rights Council Annual report of the United Nations High Commission for Human Rights and reports of the Office of the High Commission and the Secretary-General. Thematic study on the right of persons with disabilities to education. A/HRC/25/29 (18 December 2013), para. 9

<sup>12</sup> Ibid.

<sup>13</sup> Catia Malaquias, 'Unrealised Promises and Hollow Claims: Australia's Failure to Enact Its International Obligations under the CRPD for the Education of Students with Disability' (2022) 66(3) *Australian Journal of Education* 235, 244.

instruments, it applies, clarifies and reframes existing human rights to the specific needs and concerns of people with disability. In essence, the central obligation of States Parties under Article 24 of the CRPD is to 'ensure an inclusive education system' so that people with disability can realise their right to 'full and equal participation in education' 'without discrimination and on the basis of equality of opportunity'<sup>14</sup>, including by providing 'reasonable accommodation' and support measures 'within the general education system' and 'consistent with the goal of full inclusion'. Further, Article 24 expressly prohibits 'exclu[sion] from the general education system on the basis of disability.

15. The related principles of 'equality and non-discrimination' and 'full and effective participation' that are at the core of Article 24 and the right to inclusive education must be understood by reference to the historic struggle by people with disability to end their marginalisation, and their claim, against the backdrop of that history, to their full and equal right and entitlement to be a part of society, a status that was long denied to them through severe forms of systemic exclusion and segregation.
16. Importantly, as explained by the CRPD Committee in General Comment No.4 'the right to non-discrimination includes the right not to be segregated and to be provided with reasonable accommodation'<sup>15</sup>, which is an immediately realisable right, and the obligation of States Parties to ensure an inclusive education system is 'not compatible with sustaining two systems of education: mainstream and special/segregated education systems' in the long term.<sup>16</sup>

### Australia's compliance failure in education of children and young people with disability

17. Despite these clear obligations, Australian governments continue to operate 'dual-track' education systems that separate students with disability into 'special' schools and classes and to resist calls to comply with its international human rights obligations and commit to end the segregation of students with disability<sup>17</sup>, including:
  - recommendations by the CRPD Committee in its most recent 'Concluding observations on the combined second and third reports of Australia (Advance Unedited Version)' adopted in September 2019<sup>18</sup> which expressed a deep concern about the persistence of segregated education in Australia and recommended it 'address the increasing rate of segregation' of students with disability and 'develop a national action plan for inclusive education';
  - recommendations by the UN Committee on Economic, Social and Cultural Rights which in its 2017 dialogue and 'Concluding Observations on the Fifth Periodic Report of Australia'<sup>19</sup> which raised the segregation of students with disability in 'special' schools in Australia and formally recommended that Australia take effective steps to ensure that children with disability can access inclusive education;
  - recommendations by the UN Committee on the Rights of the Child which in its 2019 'Concluding observations on the combined fifth and sixth reports of Australia (Advance Unedited Version)<sup>20</sup> that Australia 'ensure that all children with disabilities have access to inclusive education in mainstream schools, are provided with the support needed, and address cases of restraint and seclusion';

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<sup>14</sup> CRPD art 24.1; CRPD/C/GC/4 at [1].

<sup>15</sup> CRPD/C/GC/4 at [13].

<sup>16</sup> CRPD/C/GC/4 at [39].

<sup>17</sup> Despite ratifying the CRPD without reservation and strongly supporting the right to inclusive education during the drafting process, Australia has since 2015 persistently challenged the authoritative interpretation of Article 24 as elaborated in General Comment No. 4, advancing instead a deeply flawed view that segregation in education is permissible under international law that relies heavily on a misapplication of Article 13 of the ICESCR to invoke parental "choice" and seeks to reopen settled questions about the incompatibility of segregated education with human rights norms. This position was not only advanced in submissions to the CRPD Committee, most recently in 2019 for the review of Australia, but also reiterated before the Disability Royal Commission in formal submissions and live evidence. In response, eminent legal experts—including Professor Andrew Byrnes in his Expert Opinion for the Royal Commission found at [https://disability.royalcommission.gov.au/system/files/2022-06/Public%20hearing%2024%20-%20Andrew%20Byrnes%20%282020%29%20Analysis%20of%20Article%2024%20of%20the%20CRPD%20and%20note%20on%20the%20travaux%20pr%C3%A9paratoires\\_1.pdf](https://disability.royalcommission.gov.au/system/files/2022-06/Public%20hearing%2024%20-%20Andrew%20Byrnes%20%282020%29%20Analysis%20of%20Article%2024%20of%20the%20CRPD%20and%20note%20on%20the%20travaux%20pr%C3%A9paratoires_1.pdf) and his live evidence at a public hearing—rejected this interpretation, affirming that General Comment No.4 provides a sound, legally robust definition of inclusive education and that Article 24 obliges a transition to fully inclusive education systems with the eventual abolition of segregation..

<sup>18</sup> CRPD/C/AUS/CO/2 3 at [45], [46].

<sup>19</sup> E/C.12/AUS/CO/5.

<sup>20</sup> CRC/C/AUS/CO/5- 6 at [43].

- the March 2022 joint statement of the Committee on the Rights of the Child and the CRPD Committee on the rights of children with disability, affirming the right to quality inclusive education and stating that this right is ‘not compatible with sustaining two systems of education: a mainstream education system and a special/segregated education system’<sup>21</sup>;
- the adoption in 2019 by the UN Human Rights Council by resolution A/HRC/RES/40/14 of the Report of the UN High Commissioner for Human Rights titled ‘Empowering Children with Disabilities for the Enjoyment of their Human Rights Including Through Inclusive Education’<sup>22</sup>, which recognised the need to phase out segregated education for students with disability and specifically recommended the transfer of ‘resources currently dedicated to special education’ to be made available in the general education system ‘as segregated settings are progressively replaced’;
- the statements of United Nations experts who gave evidence at Public Hearings of the Disability Royal Commission:
  - Professor Gerard Quinn, the then UN Special Rapporteur on the Rights of Persons With Disabilities, about the importance of making a clear switch in public policy defaults, away from segregation and in favour of a policy of people with disability ‘thriving in the community’<sup>23</sup>;
  - Catalina Devandas-Aguilar the then UN Special Rapporteur on the Rights of Persons With Disabilities, who stated that segregated education is ‘against, of course, the Convention’ and ‘segregation is a grave source of discrimination that we need to stop’;<sup>24</sup>
  - Rosemary Kayess, member of the CRPD Committee, who noted that ‘segregated parallel systems have been established because social structures and administrative structures are not inclusive for people with disability’ and that ‘it’s important that we understand that the CRPD is about addressing segregation on the basis of disability’;<sup>25</sup>
- the advocacy of Australia’s disabled persons organisations – In a 2020 Position Paper titled ‘Segregation of People With Disability is Discrimination and Must End’ which stated they are ‘fighting to end the segregation of people with disability in Australian education, housing and workplaces’;<sup>26</sup> and
- the March 2020 report by the peak international organisation representing disabled persons and representative organisations, the International Disability Alliance, titled ‘What Inclusive, Equitable, Quality Education Means to Us’ which calls for the implementation of inclusive education and the phasing out of segregated settings<sup>27</sup>
- the advocacy of the Australian Coalition of Inclusive Education comprised of 25 civil society organisations under its ‘Driving change: A roadmap for achieving inclusive education in Australia’, which outlines six key pillars for the implementation of inclusive education in Australia, one of which is the gradual phase-out of segregated education in favour of systemic reform that ensures equitable participation of children with disability in mainstream schools<sup>28</sup>.

18. Numerous domestic inquiries into education of students with disability<sup>29</sup> have also identified the failure

<sup>21</sup> Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities. *Joint Statement on the Rights of Children with Disabilities*, (18 March 2022) at [https://www.ohchr.org/sites/default/files/2022-03/CRC-CRPD-joint-statement\\_18March2022.docx](https://www.ohchr.org/sites/default/files/2022-03/CRC-CRPD-joint-statement_18March2022.docx)

<sup>22</sup> A/HRC/40/27

<sup>23</sup> Statement of Gerard Quinn, 12 December 2022, p.11.

<sup>24</sup> Disability Royal Commission, Transcript 19 Aug 2020, p.185.

<sup>25</sup> Disability Royal Commission, Transcript 6 December 2019, p.394-395.

<sup>26</sup> Disabled Peoples Organisations and Disability Representative Organisations, *Segregation of People with Disability Is Discrimination and Must End* (Position Paper, September 2020): [https://dpoa.org.au/wp-content/uploads/2020/11/Segregation-of-People-with-Disability\\_Position-Paper.pdf](https://dpoa.org.au/wp-content/uploads/2020/11/Segregation-of-People-with-Disability_Position-Paper.pdf)

<sup>27</sup> International Disability Alliance, *What Inclusive, Equitable, Quality Education Means to Us: Report by Organisations of Persons with Disabilities* (Report, March 2020).

<sup>28</sup> Australian Coalition for Inclusive Education, *Driving Change: A Roadmap for Achieving Inclusive Education in Australia* (Report, February 2021), <https://acie.org.au/acie-roadmap/>.

<sup>29</sup> NSW Legislative Council, *Children and young people with disability in New South Wales Educational Settings* (2024); Western Australia Legislative Assembly, Education and Health Standing Committee, Report 6: A Different Kind of Brilliance – Report of the inquiry into support for autistic children and young people in schools (March 2024); Final Report of the

to implement inclusive education, including notably the Disability Royal Commission which delivered its Final Report in 2023, outlining multiple systemic failures in the education of students with disability in Australia and persistent gap between inclusive education policy and its implementation.

19. The Disability Royal Commission also found that segregation on the basis of disability perpetuates stigma, exclusion, and adverse life outcomes for children and young people with disability. Research released by the Commission's Data Analytics team revealed that students with disability educated in segregated 'special' schools are approximately 85% more likely to transition into segregated adult environments—such as group homes or sheltered workshops—compared with their peers who attended inclusive mainstream schools. Segregation, therefore, not only undermines present rights but also compounds disadvantage across the life course. However, the harms of segregation are also immediate, with numerous testimonies to the Disability Royal Commission describing heightened risks of violence, abuse, and neglect in segregated educational settings. In addition, the psychosocial consequences of segregation for children and young people with disability cannot be overstated: being separated from peers on the basis of disability sends a powerful normative message from an early age—that children with disability do not belong in the same spaces as their non-disabled peers. This not only violates the right of every child to inclusive education but also runs contrary to the object and purpose of the CRPD, which is to promote the full inclusion, dignity, and equal participation of people with disability in all aspects of life.

## BACKWARD STEPS: REJECTION OF DESEGREGATION STRATEGY AND NEW INVESTMENT TO GROW SEGREGATION

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20. Yet, in the face of persistent concerns and consistent findings, segregation of students with disability is not being dismantled but is instead expanding across Australian States and Territories<sup>30</sup>, often supported by targeted infrastructure investment. Recent developments at both national and State and Territory government levels illustrate this compounding failure.

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Disability Royal Commission (2023); Senate Inquiry into the Issue of Increasing Disruption in Australian Classrooms (2023); Review of the National School Reform Agreement (Australian Government Productivity Commission, 2022); Review of the Disability Standards for Education (Commonwealth of Australia, Department of Education, 2020); Strengthening School and Systems Capacity to implement effective interventions to support student behaviour and wellbeing in New South Wales public schools (Pearce et al., 2020); South Australian Department for Education, Report of an Independent Inquiry into Suspensions, Exclusions, and Expulsions in South Australian Government Schools. South Australian Government, 2020); Review of Education for Students with Disability in Queensland state schools (Deloitte Access Economics, 2017); NSW Parliamentary Inquiry into Students with a Disability or Special Needs in New South Wales schools (NSW Parliament Portfolio Committee No. 3, 2017); NSW Audit Office Supporting students with disability in NSW public schools (NSW Audit Office, 2016); Victorian Review of the Program for Students with Disabilities (Victoria Department of Education and Training, 2016); Access to Real Learning: Current levels of access and attainment for students with disability in the school system, and the impact on students and families associated with inadequate levels of support (Commonwealth of Australia, Australian Senate Committee, 2016); Report of the Select Committee on Access to the South Australian Education System for Students with a Disability (Parliament of South Australia, 2015); ACT Report of the Expert Panel on Students with Complex Needs and Challenging Behaviour (Shaddock, Packer and Roy, 2015); Review of the Disability Standards for Education (Commonwealth of Australia, Urbis, 2015); Review of the Experiences of Students with Disabilities in Victorian schools (Victorian Equal Opportunity and Human Rights Commission, 2012); Review of the Disability Standards for Education (Commonwealth of Australia, Department of Education, Employment and Workplace Relations, 2012); NSW Parliamentary Inquiry into the Provision of Education for Students with Disability or Special Needs (General Purpose Standing Committee No. 2, 2010); NSW Auditor-General's Report Performance Audit: Educating Primary School Students with Disabilities (NSW Audit Office, 2006); Australian Government Senate Inquiry into the Education of Students with Disabilities (Commonwealth of Australia, Senate Committee, 2002).

<sup>30</sup> Between 2010 and 2022, the number of segregated or "special" schools in Australia increased by 26%, reflecting a significant expansion of educational settings that segregate students with disability. This trend is documented in the Final Report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and further corroborated by data from Children and Young People with Disability Australia (CYDA), which highlights ongoing discrimination and exclusion in the education system: Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Final Report* (Report, September 2023) vol 7, 105–7; *Final Report* (Report, September 2023) vol 7 (Summary and Recommendations), 11; vol 7A; Children and Young People with Disability Australia, *Disappointment and Discrimination: CYDA's Surveys of the Learning Experiences of Children and Young People with Disability in 2022 and 2023* (Report, 17 August 2023) <https://cyda.org.au/disappointment-and-discrimination-cydas-surveys-of-the-learning-experiences-of-children-and-young-people-with-disability-in-2022-and-2023/>.

21. Of particular concern is the emergence of ‘co-location’ of segregated ‘special’ schools on or adjacent to mainstream school campuses as a dominant policy direction following the 2023 Final Report of the Disability Royal Commission. This development—advanced under the guise of proximity and interaction—fails to meet the substantive equality and non-discrimination requirements of international human rights law and risks perpetuating and legitimising a dual-track education system that structurally segregates children and young people with disability.
22. A key catalyst for this orientation has been Recommendation 7.15 of the Disability Royal Commission, made solely by the three Commissioners without disability, which proposed that segregated special schools be co-located ‘within or close to’ mainstream schools. This was offered as an alternative to Recommendation 7.14, advanced by the other three Commissioners, all of whom have with disability and/or lived experience as carers of people with disability, which called for a time-bound national strategy to phase out segregated education and progressively realise inclusive education. Although Recommendation 7.15 has not been formally adopted by any government and it did not endorse an increase in segregation—indeed all six Disability Royal Commissioners agreed that an inclusive education system is the ultimate objective despite not agreeing on *pathways and pace for achieving this*—we are aware that it is being invoked by governments around Australia as policy justification for increased investment in co-located facilities, the growth of segregated provision for students with disability and the structural entrenchment of the dual system.
23. Co-location, however, does not fulfil Australia’s obligations under Articles 5 and 24 of the CRPD. Co-location is not inclusion. It may offer structural proximity between mainstream and segregated facilities, but it does not dismantle segregation, guarantee access on the basis of equality and non-discrimination, or support the development of a unified inclusive system. Rather, it functions as a policy workaround that enables the continuation—and expansion—of segregation under a different name. Students remain in separate classrooms and curricula, often with no meaningful interaction, reinforcing stigma and inequality. The CRPD Committee has been unequivocal: ‘special schools are a form of segregation’ and must be replaced, not repackaged or relocated. As explained in General Comment No. 4, inclusion is not achieved through proximity or interaction alone, and arrangements that maintain separation do not satisfy the right to inclusive education.
24. Further, under Article 4(1)(b) of the CRPD, Australia must take all appropriate measures to modify or abolish existing laws, regulations, customs, and practices that constitute discrimination. Continued investment in segregated education contradicts this obligation.
25. The Australian Government’s effective rejection of Recommendation 7.14, and the failure of all State and Territory governments to adopt a national desegregation strategy, signals a fundamental unwillingness to undertake the systemic reforms necessary to realise inclusive education. Instead, governments have opted to preserve and invest in the status quo. The December 2023 government responses to the Royal Commission<sup>31</sup> marked a retreat from transformational reform. Rather than embracing a transition to inclusion, governments expressed cautious interest in co-location models and

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<sup>31</sup> *Joint Australian, State and Territory Response to the Disability Royal Commission Recommendations* (PDF, July 2025, Department of Health, Disability and Ageing); Australian Government, *Australian Government Response to the Disability Royal Commission* (Web Resource, 30 July 2024, Department of Health, Disability and Ageing); Australian Capital Territory, *ACT Government Response to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability Final Report* (PDF, July 2024, ACT Government); New South Wales Government, *NSW Government Response to the Disability Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (PDF, 31 July 2024, Department of Communities and Justice); Northern Territory Government, *Northern Territory Government Response to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (PDF, 2024, Department of Social Services / NT Government); Queensland Government, *Queensland Government Response to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (PDF, 31 July 2024, Department of Families, Seniors, Disability Services and Child Safety); South Australian Government, *South Australian Government Response to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (PDF, July 2024, Department of Human Services, South Australia); Tasmanian Government, *Tasmanian Government Response to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (PDF, 31 July 2024, Department of Premier and Cabinet, Tasmania); Victorian Government, *Victorian Government Response to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Docx, 31 July 2024, Department of Families, Fairness and Housing, Victoria); Western Australian Government, *Western Australian Government Response to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (PDF, July 2024, Department of Communities, WA Government) links to all responses are available at: <https://www.health.gov.au/our-work/disability-royal-commission-response/joint-government-response>

side-stepped the core recommendation to phase out segregated settings.

26. This policy stance reflects a clear breach of Australia's obligations under the CRPD, including the obligation of progressive realisation under Article 24 and the immediate obligation to eliminate discrimination under Article 5. Co-location entrenches, rather than dismantles, structural barriers to inclusion. By reinforcing separate provision and legitimising the continuation of parallel systems, it constitutes retrogression, which is impermissible under international human rights law. Moreover, it undermines the consistent findings of experts, advocates, and international human rights bodies that segregation in education causes harm and must end.
27. The practical implications of this orientation are already being felt. For example, in Queensland, the government recently announced funding to build and operate six new special schools to be co-located with mainstream high schools, citing rising demand and parental choice<sup>32</sup>. However, as noted by advocates, this 'choice' is often illusory: families frequently resort to special schools only after mainstream schools fail to provide reasonable accommodations or actively gatekeep enrolments<sup>33</sup>.
28. Indeed, the Disability Royal Commission found that decisions to enrol children in segregated settings were often not the result of free and informed choice, but rather of exclusion from mainstream schools unable or unwilling to provide safe, quality and inclusive education with appropriate supports. This phenomenon—described as 'coercive choice—was borne out in multiple testimonies, where families reported being pushed toward segregation after facing rejection, inaccessibility, and discrimination in mainstream settings<sup>34</sup>. As disabled Commissioner Alastair McEwin stated, 'I never had a parent tell me they chose a special school—only that they had no other option.' The Commissioners with lived experience of disability concluded that true choice cannot exist between unequal options, and that the structural failings of education systems shape and constrain parental decision-making. Their position underscores the responsibility of governments to fulfil the right to inclusive education by transforming mainstream schools to be genuinely welcoming and accessible to all and providing guidance to parents about their child's fundamental human right to inclusive education.
29. Continued expansion of segregated infrastructure—whether co-located or standalone—diverts resources from mainstream schools, undermines the principle of universality of the right to education, entrenches exclusion across the education system and denies children and parents legitimate choices in education.

## CONCLUSION AND RECOMMENDATIONS

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30. Australia stands at a critical juncture in relation to the education of children and young people with disability. The findings of the Disability Royal Commission and the failure of governments to endorse a transition away from segregated education have laid bare an entrenched pattern of systemic rights violations. Rather than taking steps to dismantle segregation, governments appear poised to reinforce a dual-track system that discriminates against students with disability and contravenes Australia's binding obligations under international law. The right to inclusive education, as enshrined in Article 24 of the CRPD and elaborated in General Comment No. 4, requires States to progressively realise a unified and inclusive education system and to eliminate segregation. This is not a matter of policy discretion or balancing preferences—it is a legal obligation. Measures such as the co-location of segregated facilities alongside mainstream schools or superficial integration initiatives fail to meet this standard and risk entrenching exclusion under the veneer of reform.
31. All Means All urges the Human Rights Council to address these urgent concerns in the context of

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<sup>32</sup> Queensland Government, *Largest Special School Investment in Queensland History* (Media Statement, 25 June 2025, Premier and Minister for Education and the Arts) ('six new special schools' provision, responding to 'rising enrolment demand' and giving 'parents the choice') <https://statements.qld.gov.au/statements/102901#:~:text=The%20%241.09%20billion%20investment%20%E2%80%93%20as.new%20high%20school%20in%20Gracemere>.

<sup>33</sup> Disability Royal Commission, Transcript, Mary Sayers & Catherine McAlpine, Public hearing 24, 8 June 2022, P-202 [40–41]; Catia Malaquias, "Choosing Segregated Education – 'Parental Choice' or 'Parental Concession'?" (Starting With Julius, 2 November 2017) <https://www.startingwithjulius.org.au/parental-choice-segregation/>

<sup>34</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, *Final Report, Volume 7: Inclusive Education, Employment and Housing* (Commonwealth of Australia, 29 September 2023), pages 310-311.

Australia's Universal Periodic Review and recommends the following:

- **Recommendation 1: Australia must adopt a National Inclusive Education Roadmap with a timeline for desegregation.**

The Human Rights Council recommend Australia develop and adopt a national roadmap for inclusive education that includes a progressive phase-out of all segregated educational settings as recommended by the CRPD Committee, aligned with Recommendations 7.14 of the Disability Royal Commission. This strategy should include time-bound milestones and targets and the reallocation of public funding from segregated systems into inclusive mainstream settings and be developed in partnership with people with disability and their representative organisations.

- **Recommendation 2: Australia must uphold non-retrogression and halt the expansion of segregated settings.**

The Human Rights Council recommend Australia impose a moratorium on any public investment in new segregated schools or units. Instead, it must invest in making regular schools inclusive and universally accessible and phase out or merge segregated settings with general education settings, ensuring that students with disability are educated alongside their peers.

- **Recommendation 3: The Human Rights Council should clarify that co-located segregation is not inclusion.**

The Human Rights Council unequivocally affirm that the practice of co-locating special schools on or adjacent to mainstream campuses as a long-term strategy does not satisfy the obligation to provide inclusive education. Co-location maintains structural proximity without dismantling segregation or ensuring full access and participation in general education settings, and therefore remains a form of discrimination. The CRPD Committee, in General Comment No. 4, has made clear that segregated settings—regardless of location—are incompatible with Article 24.

- **Recommendation 4: Australia must ensure participation of people with disability in implementing all reforms to ensure inclusive education.**

The Human Rights Council recommend that in implementing all reforms to ensure inclusive education, Australia must comply with Articles 4(3) and 7(3) of the CRPD, by ensuring the active and meaningful participation of people with disability, including children and young people. This includes consultation with Disabled Persons Organisations (DPOs), families, educators, and students with lived experience of segregation and mainstream to co-design the transition strategy.

- **Recommendation 5: Australia must regularly report to the United Nations system and future Universal Periodic Review cycles on progress towards inclusive education and support the monitoring role of Australian Human Rights Commission.**

Finally, the Human Rights Council should also recommend that Australia regularly report to the CRPD Committee, the Committee on the Rights of the Child, and future Universal Periodic Review cycles on progress towards inclusive education. The Council should also encourage Australia to invite a visit by the UN Special Rapporteur on the Right to Education or the Special Rapporteur on the Rights of Persons with Disabilities to assess systemic barriers and support implementation. Independent monitoring by civil society and the Australian Human Rights Commission should also be supported through appropriate funding and transparency obligations.

32. In conclusion, we ask the Human Rights Council to send an urgent and unequivocal message through this Universal Periodic Review: Australia's current trajectory in educating students with disability—including the promotion of co-location as an alternative to genuine inclusive education—is incompatible with its binding obligations under international law. Segregation, even when repackaged by spatial proximity, remains discrimination and must be dismantled. Australia must renew its commitment to Article 24 of the CRPD and take bold, coordinated action to deliver a single, universally accessible, quality and inclusive education system for all learners. The opportunity for systemic reform is now—and the Universal Periodic Review is a critical forum through which that commitment must be affirmed.