Submission to the Community Services Committee of the NSW Parliament

Human Rights Bill 2025 inquiry

All Means All, Family Advocacy and Inclusive Educators Australia

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1. EXECUTIVE SUMMARY

We support the enactment of a comprehensive Human Rights Act in New South Wales. A Human Rights Act would provide a robust framework for protecting the human rights of individuals in NSW, improving public decision-making and accountability and ensuring that rights are considered consistently across government and public services.

This submission focuses on education, as a fundamental human right and a key enabler of a more inclusive society and a practical example of why strong human rights protections matter. While Australia has recognised the right to inclusive education under international human rights law, many students with disability in New South Wales continue to experience gatekeeping, exclusionary discipline, inadequate adjustments and other barriers to participation in general education. The experiences of diverse learners, including students with disability, in NSW demonstrate the considerable gap that exists between the recognition of, and commitment to realising, human rights and their genuine realisation in practice.

We welcome the inclusion of a right to education in the Human Rights Bill 2025. However, we consider that clause 38 should more fully reflect Australia's obligations under Article 24 of the UN Convention on the Rights of Persons with Disabilities (CRPD) by expressly recognising the right to inclusive education.

Accordingly, we recommend that:

> **Recommendation 1:** The Parliament of New South Wales enact a comprehensive Human Rights Act.
>
> **Recommendation 2:** Clause 38 of the Human Rights Bill 2025 be amended to expressly recognise the right to inclusive education and better reflect Australia's obligations under Article 24 of the CRPD, including the right of students with disability to receive the reasonable adjustments and supports necessary to participate in education on an equal basis with others. We recommend the clause be amended as follows:
>
> **38 Right to education**

(1) Every child has the right to have access to inclusive early childhood education and inclusive primary and secondary education without discrimination.

(2) Every individual has the right to have access to inclusive vocational and higher education or other further education and training without discrimination.

(3) In relation to people with disability, this right includes the right to receive the reasonable adjustments and supports necessary to participate in education on an equal basis with others.

Recommendation 3: The Human Rights Bill 2025 should include accessible and effective mechanisms for raising concerns, resolving disputes and obtaining remedies where human rights have been breached.

Our organisations would welcome the chance to speak further about the matters covered in our submission at future in-person hearings. To arrange this, or for more information about this submission, please contact:

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2. INTRODUCTION

2.1 About us

We welcome the opportunity to provide a submission to the Community Services Committee inquiry into the Human Rights Bill 2025. This submission is made jointly by All Means All, Family Advocacy and Inclusive Educators Australia (IEA). Our organisations have provided evidence to a range of national, state and territory human rights, disability and education inquiries, including to the NSW Parliamentary Inquiry into Children and young people with disability in New South Wales educational settings (NSW Parliament Portfolio Committee No.3, 2023).

All Means All is a national, multi-stakeholder organisation working to realise every student's right to inclusive education by addressing the legal, structural and attitudinal barriers that continue to exclude students with disability. Its Board comprises a majority of people with disability and family members of people with disability. In addition to its leading role in ACIE, All Means All is a member of Inclusion International.

Family Advocacy is a not-for-profit disability advocacy organisation that has worked across New South Wales for more than 35 years to advance and protect the rights and interests of people with developmental disability. Through individual and systemic advocacy, Family Advocacy supports families and people with disability across a broad range of issues throughout all stages of life.

Inclusive Educators Australia is a national network of more than 10,000 education professionals and affiliate members, including principals, teachers, education assistants, allied professionals and education system leaders across public, Catholic and independent education sectors. It promotes and supports inclusive education through professional learning, evidence-informed resources and collaborative networks.

Together, our organisations bring complementary expertise in disability rights reform, family advocacy and inclusive education. This includes experience advancing systemic change, supporting people with disability and families to realise their rights and implementing inclusive education across Australian education settings.

We contribute this expertise through our active membership of the Australian Coalition for Inclusive Education (ACIE), with All Means All serving as Chair and national Co-convenor. ACIE is a national alliance of 25 organisations representing more than 1.2 million Australians. It brings together people with disability, families, educators, advocates, researchers and community organisations committed to advancing inclusive education in line with Australia's obligations under the CRPD. ACIE has led national policy and reform initiatives and developed the National Roadmap for Achieving Inclusive Education, a comprehensive framework for transforming Australia's education system so that all learners can learn and belong together.

2.2 Our submission

This submission focuses on education as a fundamental human right, a key enabler of inclusion and participation, and an area in which the consequences of inadequate human rights protections can be clearly seen in NSW.

Drawing on the experiences of students with disability, families and educators, the submission considers how a Human Rights Act can help strengthen accountability, improve decision-making and support the realisation of the right to inclusive education in New South Wales. It also makes recommendations to strengthen the protection of the right to education in the Human Rights Bill 2025 and ensure that effective remedies are available when rights are not respected.

3. THE NEED FOR A HUMAN RIGHTS ACT IN NSW

New South Wales has fallen behind comparable Australian jurisdictions in the protection and promotion of human rights. Unlike the ACT, Victoria and Queensland, New South Wales does not currently have a Human Rights Act or Charter of Human Rights. This means there is no overarching legislative framework requiring Parliament, government and public authorities in NSW to consider the impact of their decisions on human rights. This also means there is no clear and accessible mechanism for challenging situations where a person's rights haven't been adequately protected and seeking appropriate redress.

While a Human Rights Act would benefit everyone in New South Wales, it would be particularly significant for communities who have historically experienced exclusion, marginalisation or barriers to participation. This includes people with disability, whose experiences demonstrate both the real human cost of inadequate rights protections and the potential benefits of a stronger, more coherent human rights framework.

Australia ratified the CRPD in 2008 and committed to recognising people with disability as equal holders of all human rights and fundamental freedoms. However, to date, implementation of the CRPD has been uneven and piecemeal, and many of the rights it guarantees remain inadequately recognised and protected under Australian law. People with disability continue to experience exclusion, discrimination and barriers to equal participation across many areas of life and the absence of comprehensive legislation protecting human rights is a significant contributing factor.[1]

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (the Disability Royal Commission) confirmed the scale of these challenges. It found that people with disability continue to experience high rates of violence and abuse, multiple forms of neglect, and sexual and financial exploitation. Mistreatment and exclusion occur across settings and contexts and throughout different stages of people's lives. Importantly, the Royal Commission recognised that these experiences are driven by systemic failures in laws, policies, institutions and service systems rather than isolated incidents or individual actions.[2]

As part of this, the Royal Commission identified significant shortcomings in Australia's legislative recognition and protection of human rights. It found that many

rights recognised in the CRPD are not adequately protected under Australian law and that current protections are fragmented, piecemeal and difficult to enforce. The Commission highlighted the limitations of relying solely on anti-discrimination and sector-specific legislation. While these laws provide important protections, they have not been sufficient to prevent systemic rights violations or realise equality in practice.

The Royal Commission concluded that stronger and more comprehensive legislative measures are required to effectively protect the human rights of people with disability, embed human rights considerations into decision-making and to provide access to effective remedies when rights are breached.[3]

A NSW Human Rights Act would be in line with these recommendations. It would require public authorities to consider human rights when making decisions, support more transparent and accountable decision-making and encourage the identification and resolution of rights issues before harm occurs. It would also provide stronger mechanisms for raising concerns and seeking remedies when rights are not respected.

The experiences of students with disability in the New South Wales education system provide a clear example of why these protections are needed. Despite Australia's ratification of the CRPD and recognition of inclusive education as a human right, many students with disability continue to experience exclusion from general education and a lack of support and adjustments required to enable participation. Families are often required to advocate for supports and inclusive practices that should already be embedded within the education system. Educators committed to inclusive practice often face structural and systemic barriers that limit their ability to fully support all diverse learners. We discuss this further in section 4.3.

These experiences highlight the importance of embedding human rights considerations into laws, policies and public decision-making. A Human Rights Act would help create a culture in New South Wales in which human rights are considered early, consistently and transparently, rather than only after rights have been breached.

For these reasons, we strongly support the enactment of a Human Rights Act in New South Wales.

4. RECOGNISING AND REALISING THE RIGHT TO EDUCATION IN NSW

The experiences of diverse learners in NSW, including students with disability, provide a valuable example of why stronger human rights protections are needed and how they could improve the experiences of children and young people with disability.

4.1 The right to education

The right to education is a fundamental human right and one of the most significant rights recognised under international law.[4] It is both a right in itself and an enabling right that supports the exercise of many other human rights.

Education empowers individuals, promotes equality and social justice, supports health and wellbeing, facilitates participation in economic and community life and contributes to more inclusive and democratic societies. Where participation in education is denied, restricted or provided on a discriminatory basis, this can have profound and lifelong consequences for the enjoyment of other rights, opportunities and full participation in society.[5]

The right to education is recognised in a range of international human rights instruments Australia has ratified, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child and the CRPD. Together, these instruments recognise education as essential to the full development of the human personality and human dignity, and to enabling effective participation in a free and inclusive society.

The right to education was first made into a binding international legal obligation by Article 13 of the ICESCR. This article recognises the right of everyone to education and affirms that education should be directed to the full development of the human personality and dignity, strengthen respect for human rights and fundamental freedoms and enable all people to participate effectively in society.

The content of the right has been further developed through international human rights jurisprudence. In General Comment No. 13, the Committee on Economic, Social and Cultural Rights (CESCR) explains that education must be available,

accessible, acceptable and adaptable.[6] These elements require education to be available to all learners, accessible without discrimination, responsive to diverse learning needs and delivered in ways that are relevant, appropriate and of good quality. Importantly, the concept of *adaptability* recognises that education systems must adapt to learners, rather than expecting learners to adapt to inflexible systems.

The right to education cannot be understood in isolation from other human rights. As recognised by the Committee on Economic, Social and Cultural Rights, education is both a human right in itself and an indispensable means of realising other human rights. Access to and participation in education are closely connected to rights including equality and non-discrimination, participation in society, cultural rights, freedom and the rights of children.[7]

These relationships illustrate 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, alongside civil and political rights, and other social, cultural and economic rights. As CESCR has observed, education is the primary vehicle through which economically and socially marginalised people can realise other rights and participate fully in their communities.[8]

4.2 The human right to inclusive education in the CRPD

The right to inclusive education is recognised in Article 24 of the CRPD. Article 24 represents the most contemporary expression of the right to education and it is the first international human rights treaty provision to expressly recognise inclusive education as the means by which people with disability realise their right to education.

While the CRPD, including Article 24, draws on principles embodied in the earlier human rights instruments, it applies, clarifies and reframes existing human rights to the specific needs and concerns of people with disability.[9]

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’, 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'.

Importantly, Article 24 of the CRPD not only prohibits discrimination and exclusion from education on the basis of disability, it complements this with a 'positive philosophy' for the right to inclusive education and sets out positive actions required by States Parties to implement it.

This importance of inclusive education is reinforced across the international human rights framework. The United Nations Committee on the Rights of the Child has also affirmed that **all children** have a right to inclusive education, requiring systems that recognise every child is different.[10] This principle is reinforced by Sustainable Development Goal 4,[11] which commits States to ensure inclusive and equitable quality education and lifelong learning for all.

Inclusive education is also supported by a substantial body of research demonstrating that when learning environments are designed from the outset to accommodate diversity, they become more accessible and responsive for all learners. Research consistently identifies benefits for students with disability and their non-disabled peers, including improved academic, social and post-school outcomes, and greater acceptance of diversity and belonging.[12]

The Committee on the Rights of Persons with Disabilities further explained and clarified the content of Article 24 in General Comment No. 4 (2016) on the right to inclusive education. It provides authoritative guidance to State Parties, including Australia, on the interpretation of the Article 24.

Article 24 and General Comment No.4 were the subject of a detailed legal analysis prepared by eminent international human rights law expert and jurist Professor Andrew Byrnes for the Disability Royal Commission. In his legal advice, Professor Byrnes describes General Comment No.4 as 'a sound legally based working definition of inclusive education' and states that the interpretation of Article 24 in GC4 is 'the one that would be reached by the proper application of the accepted rules of treaty interpretation'.[13]

In General Comment No.4, the Committee explained that inclusive education is a process of systemic reform involving changes to educational cultures, policies and

practices to remove barriers and ensure that all learners can participate on an equal basis.[14] It defined inclusion as:

> a process of systemic reform embodying changes and modifications in content, teaching methods, approaches, structures and strategies in education to overcome barriers with a vision serving to provide all students with an equitable and participatory learning experience and environment that best corresponds to their requirements and preferences.[15]

Educational settings, policies and practices therefore must be transformed to accommodate the diversity of learners and support their full and effective participation.[16]

General Comment No. 4 also distinguishes inclusion from exclusion, segregation and integration. Exclusion occurs when students are denied access to education. Segregation occurs when students with disability are educated in separate environments designed to respond to particular impairments and isolated from students without disability. Integration occurs when students with disability are placed in mainstream settings and expected to adapt to existing structures and practices. By contrast, inclusion requires education systems to adapt to learners and recognise diversity as an ordinary and valued aspect of the educational community.[17]

The Committee further explained that the right to non-discrimination includes the right to reasonable accommodation and the right not to be segregated.[18] Special/segregated education is, therefore, a form of disability discrimination.[19] Further, 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.[20] This means Article 24 obliges States Parties to transition to a system of fully inclusive education. Over the medium to long term, this will involve the allocation of resources to general schools to support the transition and eventual closure of special/segregated education for children with disability.[21]

The right to inclusive education is therefore both a substantive right held by students and a framework for education system transformation. It recognises that equality cannot be achieved through separate educational pathways and that all students are

entitled to learn, participate and belong within a common education system that is capable of responding to human diversity.

This understanding of the right to inclusive education provides an important framework for informing the right to education contained in the Human Rights Bill 2025. While the Bill recognises a right to education, it does not currently reflect the full content of Australia's obligations under Article 24 of the CRPD, including the right to an inclusive education and the corresponding obligations that flow from that right.

4.3 The current experiences of students with disability in NSW

The experiences of students with disability in NSW demonstrate the considerable gap between their right to inclusive education recognised in international human rights law and the current provision of education in NSW.

The Disability Royal Commission found that students with disability across Australia face multiple barriers to inclusive education, in particular:

- gatekeeping practices, which deny students with disability access to the school of their choice or informally discourage their attendance
- the inappropriate use of exclusionary discipline, particularly from an early age
- the failure to provide students with disability with adjustments, supports and individualised planning
- a lack of opportunity to participate in the broader school community, form friendships and develop the skills needed for lifelong learning and success
- poor integration between the National Disability Insurance Scheme (NDIS) and education supports
- inadequate support to transition from school to open employment and further education
- a lack of avenues for meaningful communication between school leaders and teachers and parents and students.[22]

The challenges identified by the Disability Royal Commission have also been recognised at a state level. In 2024, the New South Wales Legislative Council's inquiry into children and young people with disability in NSW educational settings found that many students with disability continue to experience significant barriers to

inclusion and participation in education.[23] These barriers included gatekeeping practices, exclusionary discipline, inconsistent provision of adjustments and supports, inaccessible learning environments and limited avenues for students and families to seek independent review of school decisions.[24]

The inquiry found that suspension and expulsion practices disproportionately affect students with disability and can have lasting impacts on educational engagement and post-school pathways.[25] The inquiry also identified that a large number of students with disability have become disengaged from education due to exclusion, bullying, unmet educational needs and other barriers to participation.[26]

Importantly, the inquiry recognised that the impacts of exclusion extend beyond individual students. It found that barriers to inclusion can create significant consequences for families and carers and contribute to broader patterns of prejudice, discrimination and ableism within society.[27]

The inquiry also found that the New South Wales Department of Education's definition of inclusive education is not consistent with the understanding of inclusive education reflected in the CRPD.[28]

Collectively, these findings demonstrate that barriers to inclusive education remain a significant human rights issue in New South Wales. They also highlight the limitations of existing legal and policy frameworks in ensuring that the rights of students with disability are consistently recognised, protected and realised in practice consistent with international human rights law obligations.

Case study: exclusionary discipline in NSW and the denial of inclusive education

The experience of "Sam", examined during Public Hearing 7 of the Disability Royal Commission, illustrates the real-world consequences of failing to embed human rights principles in educational decision-making. It demonstrates how exclusionary discipline practices can disproportionately impact students with disability, limit their participation in education and undermine their right to inclusive education on an equal basis with others.

Within weeks of starting kindergarten Sam was issued a formal caution and received seven suspensions in his first 18 months of schooling, including two suspensions of

20 days. The repeated suspensions were largely driven by a policy that treated incidents involving physical violence resulting in injury as automatic grounds for suspension, regardless of the student's age, disability, intent or support needs.

The New South Wales Department of Education acknowledged that the policy could disproportionately affect students with disability and the State accepted that the suspensions imposed on Sam were inappropriate given his age and disability.

The Disability Royal Commission found that the repeated use of suspension effectively denied Sam access to quality, inclusive education.

The case demonstrates how exclusionary discipline policies can disproportionately affect students with disability and contribute to educational exclusion from the earliest years of schooling. It also illustrates the limitations of existing safeguards and accountability mechanisms in preventing rights violations before significant harm occurs.

Case study: gatekeeping in NSW schools

Evidence provided to the 2024 NSW Parliamentary Inquiry into Children and Young People with Disability in New South Wales Educational Settings highlighted that gatekeeping can occur in subtle ways.

One parent told the inquiry that, although their child was not formally refused enrolment, school staff repeatedly discouraged the family from enrolling and later remaining at the school. The parent described a range of actions that created barriers to participation, including the refusal of a parking arrangement that would have enabled their child, who used a walking frame and could only walk short distances, to access the school more easily.[29]

The parent also raised concerns about decisions that disrupted established relationships and supports, including a request for a teacher who had developed a strong rapport with their child to continue working with them in the following school year.[30]

This example demonstrates how barriers to inclusion can arise through ordinary operational decisions, rather than through a single formal act of exclusion. It highlights the importance of a human rights framework that requires decision-makers

to consider the impact of their actions on the rights of students with disability and to promote inclusion from the outset.

4.4 Why New South Wales needs a Human Rights Act to protect the right to education

Currently, NSW laws and policies do not establish a sufficiently robust framework to support the realisation of the right to inclusive education. As a result, students with disability continue to experience barriers to participation, inclusion and equal access to education.

While the *Education Act 1990* (NSW) provides that 'every child has the right to receive an education',[31] this right is only recognised in the legislative statement of principles which means that an apparent breach of the 'right' does not give rise to an enforceable remedy.[32] Further, under NSW legislation there is no enforceable right for parents of children with disability to enrol in a particular school, even if they satisfy residential or other general entrance criteria.[33]

The limitations of the current framework are also reflected in recent parliamentary scrutiny. As noted above, the NSW Legislative Council's inquiry into children and young people with disability in NSW educational settings found that the NSW Department of Education's definition of inclusive education is not consistent with the understanding of inclusive education reflected in Article 24 of the CRPD. In particular, the Committee noted that the CRPD understanding of inclusive education requires students with and without disability to learn together, whereas the Department's Inclusive Education Statement refers more broadly to 'system inclusion' without expressly recognising this principle. The Committee expressed concern that this divergence may undermine efforts to implement inclusive education consistently with Australia's obligations under the CRPD,[34] and explicitly noted the need for a clear and prescriptive definition of inclusive education.

Recognition of the right to education in a NSW Human Rights Act would help address these gaps by embedding human rights considerations into educational decision-making and creating stronger accountability for the protection of students' rights. It would require public authorities to consider the impact of their decisions on the right to education and encourage policies and practices that are consistent with principles of equality, participation, dignity and inclusion. Importantly, it would move

the focus from responding to rights violations after they occur to preventing them from occurring in the first place. It would also provide students and families with clearer pathways to raise concerns and seek accountability when rights are not respected.

In essence, a Human Rights Act would provide the legal foundation currently missing in New South Wales: a clear recognition that education is a human right and that public authorities must act consistently with that right. While it would not, by itself, deliver all of the systemic reforms required to achieve inclusive education, it would establish the framework within which those reforms should occur by requiring rights to be considered in laws, policies, funding decisions, school practices and individual decisions affecting students with disability. In doing so, it would provide a stronger basis for advancing the right to inclusive education in New South Wales.

4.5 The right to education in the Human Rights Bill 2025

We welcome the inclusion of a right to education in clause 38 of the Human Rights Bill 2025. The provision recognises the fundamental importance of education and reflects Australia's obligations under international human rights law. However, in its current form, the clause does not fully reflect the content of the right to inclusive education under Article 24 of the CRPD, nor the broader recognition across international human rights jurisprudence that inclusive education benefits and applies to all learners.

Clause 38 focuses on access to education without discrimination. While this is an important protection, Article 24 of the CRPD recognises a broader right to inclusive education and requires States Parties to ensure an inclusive education system at all levels. The right to inclusive education encompasses not only access to educational settings, but also participation, reasonable accommodation, individualised supports, accessibility and the progressive transformation of education systems to ensure all learners can learn together.

As discussed earlier in this submission, the Disability Royal Commission and the NSW Parliamentary Inquiry into children and young people with disability in NSW educational settings identified significant and ongoing barriers to the realisation of inclusive education in New South Wales. These findings demonstrate the importance

of ensuring that the Human Rights Bill 2025 expressly recognises the right to inclusive education rather than relying solely on a general right to education.

For these reasons, we recommend that clause 38 be amended to expressly recognise the right to access an inclusive education system at all levels, consistent with Article 24 of the CRPD.

We recommend the following amendments to clause 38, with additions underlined:

38 Right to education

> (1) Every child has the right to have access to <u>inclusive</u> early childhood education and <u>inclusive</u> primary and secondary education without discrimination.
>
> (2) Every individual has the right to have access to <u>inclusive</u> vocational and higher education or other further education and training without discrimination.
>
> (3) <u>In relation to people with disability, this right includes the right to receive the reasonable adjustments and supports necessary to participate in education on an equal basis with others.</u>

At a minimum, if the Committee does not support substantive amendment of clause 38, consideration should be given to including a note directing decision-makers to Article 24 of the CRPD. This is consistent with the approach adopted in the Commonwealth Human Rights Bill 2026, which mirrors the draft Human Rights Bill provided by the Parliamentary Joint Committee on Human Rights as part of their Inquiry into Australia's Human Rights Frameworks.[i] While this would not provide the same level of protection as explicit recognition of the right to inclusive education, it would assist in ensuring that the right to education is interpreted consistently with Australia's obligations under the CRPD. The note, to go at the end of clause 38, could be framed as follows:

> Note: For the application of this right in relation to people with disability, see Article 24 of the Convention on the Rights of Persons with Disabilities.

[i] The Committee stated that the illustrative Human Rights Bill was based on the Australian Human Rights Commission's proposed model, modified in light of submissions and the committee's recommendations.

4.6 The importance of effective remedies

We support the inclusion in the Human Rights Bill 2025 of accessible and effective mechanisms for raising concerns and seeking remedies when human rights are not respected. The practical value of a Human Rights Act depends not only on the rights it recognises, but also on the availability of mechanisms to promote accountability and address breaches when they occur.

The experiences of students with disability and their families demonstrate why this is important. As discussed above, families are frequently required to advocate for enrolment, adjustments, supports and inclusion that should already be recognised as matters of right. Existing pathways for challenging decisions are often fragmented, complex and difficult to navigate. The NSW Parliamentary inquiry into children and young people with disability in educational settings found that students and families have limited opportunities to seek independent review of school decisions and actions, including decisions relating to adjustments, supports and participation in education.[35]

As a result, many families are left with few practical options when concerns arise. Rather than being able to rely on clear rights and accessible review mechanisms, they often bear the burden of escalating concerns, navigating complaints processes and advocating repeatedly for outcomes that should be routinely available. This can be particularly difficult for children and young people with disability and their families, who may already face significant barriers to participation and access to justice.

A Human Rights Act provides an opportunity to strengthen accountability by ensuring that rights are accompanied by practical mechanisms for resolution and review. The importance of accessible and effective remedies is also recognised in General Comment No. 4 on the right to inclusive education, which states that governments should establish independent, effective, accessible and enforceable complaints mechanisms and legal remedies for violations of the right to education.[36]

Effective remedies can help identify and resolve human rights issues at an early stage, promote better decision-making by public authorities and provide individuals with meaningful avenues for redress when rights are not respected. In this way, remedies are not merely procedural. They are an essential component of ensuring that human rights protections have practical effect.

5. CONCLUSION

We support the enactment of a comprehensive Human Rights Act in New South Wales and welcome the opportunity presented by the Human Rights Bill 2025 to strengthen the protection and promotion of human rights across the State.

As this submission has demonstrated, the experiences of students with disability in New South Wales highlight the importance of embedding human rights considerations into laws, policies and public decision-making.

A Human Rights Act would provide a stronger framework for accountability, help prevent human rights breaches before they occur and support the realisation of the right to inclusive education for all learners.

We therefore recommend:

> **Recommendation 1:** The Parliament of New South Wales enact a comprehensive Human Rights Act.
>
> **Recommendation 2:** Clause 38 of the Human Rights Bill 2025 be amended to expressly recognise the right to inclusive education and better reflect Australia's obligations under Article 24 of the CRPD. We recommend the clause be amended as follows:
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> > **38 Right to education**
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> > (2) Every individual has the right to have access to inclusive vocational and higher education or other further education and training without discrimination.
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> > (3) In relation to people with disability, this right includes the right to receive the reasonable adjustments and supports necessary to participate in education on an equal basis with others.

Recommendation 3: The Human Rights Bill 2025 should include accessible and effective mechanisms for raising concerns, resolving disputes and obtaining remedies where human rights have been breached.

We would welcome the opportunity to provide further information to the Committee and to appear at a public hearing to discuss the matters raised in this submission.

Endnotes

[1] Royal Commission into violence, abuse, neglect and exploitation, *Final Report – Volume 4, Realising the human rights of people with disability,* p 100.
[2] Royal Commission into violence, abuse, neglect and exploitation, *Final Report – Executive Summary, Our vision for an Inclusive Australian and recommendations*
[3] Royal Commission into violence, abuse, neglect and exploitation, *Final Report – Volume 4, Realising the human rights of people with disability,* p 99.
[4] United Nations General Assembly, Universal Declaration of Human Rights, GA Res 217A (III), UNGAOR, UN Doc A/810 (10 December 1948), Article 26.
[5] Committee on Economic, Social and Cultural Rights, 'General Comment No. 13 - The right to education (article 13 of the Covenant)', twenty-first session 1999, UN Doc E/C.12/1999/10 (8 December 1999); UNESCO, *Education 2030: Incheon Declaration and Framework for Action: Towards inclusive and equitable quality education and lifelong learning for all*, (2016), Paris: UNESCO
[6] Committee on Economic, Social and Cultural Rights, 'General Comment No. 13 - The right to education (article 13 of the Covenant)', twenty-first session 1999, UN Doc E/C.12/1999/10 (8 December 1999) para 6.
[7] Committee on Economic, Social and Cultural Rights, 'General Comment No. 13 - The right to education (article 13 of the Covenant)', twenty-first session 1999, UN Doc E/C.12/1999/10 (8 December 1999).
[8] 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
[9] Rosemary Kayess and Phillip French, 'Out of Darkness into Light? Introducing the Convention on the Rights of Persons with Disabilities' (2008) 8 *Human Rights Law Review* 1, 25.
[10] Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of the Child, *Joint General Comment No 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No 23 (2017) of the Committee on the Rights of the Child on State Obligations Regarding the Human Rights of Children in the Context of International Migration*, UN Docs CMW/C/GC/4–CRC/C/GC/23 (16 November 2017) [61]–[63] affirming that all children in the context of migration have the right to inclusive and quality education, regardless of status; Committee on the Rights of the Child, *General Comment No 21 (2017) on Children in Street Situations*, UN Doc CRC/C/GC/21 (21 June 2017) [56]–[58] requiring States to guarantee inclusive, quality and flexible education to all children in street situations; Office of the High Commissioner for Human Rights, *Right to education for persons with disabilities – Committee on the Rights of Persons with Disabilities General Comment No 4* (17 April 2015) <https://www.ohchr.org/en/press-releases/2015/04/right-education-persons-disabilities-committee-rights-persons-disabilities>
[11] United Nations General Assembly, *Transforming Our World: The 2030 Agenda for Sustainable Development*, UN GAOR, 70th sess, Agenda Item 15, UN Doc A/RES/70/1 (21 October 2015) Goal 4
[12] De Bruin, K (2023) 'Inclusive Education: A Review of the Evidence' in Linda Graham (ed), *Inclusive Education in the 21st Century: Theory, Policy and Practice* (2nd ed, Routledge, 2023) ch 6, 95–114.
[13] Andrew Byrnes, *Analysis of article 24 of the convention on the rights of persons with disabilities and its relation to other international instruments*, prepared for the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, November 2020 <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>
[14] Committee on the Rights of Persons with Disabilities, *General comment no. 4 (2016) on article 24: the right to inclusive education*, 14th sess, UN Doc CRPD/C/GC/4 (25 November 2016), [10].
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